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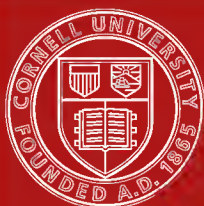
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# **FAMILY DESERTION**

## **FIVE HUNDRED AND SEVENTY-FOUR DESERTERS AND THEIR FAMILIES**

**LILIAN BRANDT  
NEW YORK CITY**

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**WILLIAM H. BALDWIN  
WASHINGTON**



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SUPPORT LAWS

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# FIVE HUNDRED AND SEVENTY-FOUR DESERTERS AND THEIR FAMILIES

A DESCRIPTIVE STUDY OF THEIR CHARACTERISTICS AND  
CIRCUMSTANCES

BY

LILIAN BRANDT

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THE CHARITY ORGANIZATION SOCIETY  
NEW YORK CITY  
1905

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## FIVE HUNDRED AND SEVENTY-FOUR DESERTERS AND THEIR FAMILIES

What sort of men desert their wives? What sort of wives do they desert, and under what circumstances? What is done to the man and for the family when by deserting he leaves his wife and children dependent on charity? It was to answer questions like these that the present study was undertaken.

For several years this phenomenon, the desertion of wife and children by the husband and father, has been forcing itself on the attention of charitable societies. It is probable that desertion is really increasing. Certainly it is credited with causing more destitution than formerly, but part of the apparent increase is doubtless due to a more accurate knowledge of the facts. Just as a large part of the alarming increase in the pneumonia mortality is due to nothing more than the recognition among children and old persons of cases of pneumonia which formerly would have been classified as "unknown," so some part, at least, of the increase in desertion is attributable to better diagnoses of the situation. More trouble is taken to find out whether the head of the family contributes his share to its support, and if not, why he does not; and more importance is attached to scrutinizing the claim to the convenient title of widow, with the result that many an able-bodied husband and father who would formerly have been disregarded or counted among the dead, is now catalogued in his proper place among the deserters. Allowing for this, however, it still remains true that the ever-increasing ease of getting from place to place, the restlessness of American life, the constant transfer of isolated members or parts of families from Europe to this country and from the older parts of this country to the newer—that all these influences, and others, are at work to weaken the individual's sense of responsibility for his family. It is also true that charity workers have

come to feel that the problem of caring for deserted families is a most delicate one and still far from a satisfactory solution, and this also may account, in part, for the increased attention given to it.

#### SOURCE OF MATERIAL

The first attempt to collect and present data which should help toward a better understanding of this problem was made by the Associated Charities of Boston in 1901, when Miss Smith published her careful study of the two hundred and thirty-four deserted families which had been under the care of the society during the preceding year. Next a special committee of the Philadelphia Society for Organizing Charity made a discriminating classification of the ~~types of deserters~~ found among the two hundred and eleven cases under its care in 1902, presenting at the same time a summary of the legislative situation in Pennsylvania and other states. In April, 1903, a conference on the subject was called by the New York Charity Organization Society, at which workers from Philadelphia, Buffalo, Brooklyn and New York exchanged opinions as to causes and experiences with remedies. As a result of this conference interest was stimulated in a number of places and resolutions were adopted the next week at the National Conference of Charities and Correction, petitioning the governors of the various states to exercise their power of extradition in the case of deserting men whenever occasion offered. It was also as a result of this conference that the New York Charity Organization Society decided to make an attempt to get together the most significant facts about a large number of desertion cases in different cities. It was thought that such figures would serve to confirm or to correct the conclusions already reached by the Boston and Philadelphia studies; that they would throw new light on some points; and that they would form a substantial and representative body of evidence by which to judge the impressionistic explanations so frequently offered.

A schedule of questions, selected out of the many to which it would be useful and interesting to have answers, was made out, and all the charity organization societies in the United States were invited to assist in gathering material by keeping special

records of their cases of desertion during the year beginning November 1, 1903. This invitation brought many expressions of interest in the undertaking and fifty-four societies agreed to supply the desired records. The aggregate estimate of the number of schedules that would be required was over 3,000. In November, 1904, the records were called for, with the result that five hundred and ninety-one fairly satisfactory histories were received from twenty-six organizations.<sup>1</sup> In a few societies the matter had been entirely forgotten; in others it was found impossible to do anything beyond the day's work; and from not one of the large societies was anything approaching a complete registration of the desertion cases for the year received.

#### CONTRIBUTING SOCIETIES

The material has been contributed from twenty-five cities, located in fifteen states, and ranging in size from a town of less than 8,000 inhabitants to New York city. As to the value of the records it should be remembered that, although there are many omissions and some of the most important information is meagre, still these schedules have been filled out in almost every instance by the district agent or visitor best acquainted with the family, who is, on the whole, in possession of more of the truth about the situation than any other one person. To all these workers who have contributed of their time and thought and experience to supply material grateful appreciation is due from all who are interested in the better understanding of this problem.

Among the five hundred and ninety-one records seventeen were found to be cases in which the wife had been the deserter, leaving a total of five hundred and seventy-four, distributed among the twenty-five cities as follows:

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<sup>1</sup> The twenty-eight organizations which had expected to contribute, but failed to do so, were: the Associated Charities of Bloomington, Ill.; the Charity Organization Society of Castleton, N. Y.; one district of the Chicago Bureau of Charities; the Associated Charities and the United Jewish Charities of Cincinnati; the United Charities of Dallas, Texas; the Associated Charities of Des Moines, Iowa, of Easton, Pa., and of Eau Claire, Wis.; the Benevolent Union of Fitchburg, Mass.; the Associated Charities of Gloucester, Mass., and of Jacksonville, Ill.; the New Jersey State Board of Children's Guardians; the Associated Charities of Kokomo, Ind.; the Charity Organization Society of Lincoln, Neb.; the Associated Charities of Minneapolis, Minn., and of Newark, N. J.; the Industrial Settlement of Newburgh, N. Y.; the Organized Charities Society of New Rochelle, N. Y.; the Bureau of Dependent Children of the New York City Department of Public Charities; the Associated Charities of Oakland and of Redlands, Cal.; the Society for Organizing Charity of Rochester, N. Y.; the St. Louis Provident Association; the Charity Organization Society of Seattle, Wash.; the Associated Charities of Syracuse, N. Y., and of Taunton, Mass.; and the Woman's Institute of Yonkers, N. Y.

TABLE I. SOURCE OF MATERIAL

City	Organization	Number of Records	Population in 1900
Akron, Ohio.....	Union Charity Association.....	1	42,728
Baltimore, Md.....	Association for Improving the Condition of the Poor, and the Charity Organization Society...	10	508,957
Bethlehem, Pa.....	Charity Organization Society.....	2	7,293
Boston, Mass.....	Associated Charities.....	64	560,892
Buffalo, N. Y.....	Charity Organization Society.....	33	352,387
Burlington, Iowa..	Charity Organization Society.....	4	23,201
Cambridge, Mass..	Associated Charities .....	41	91,886
Evansville, Ind....	Associated Charities.....	23	59,007
Indianapolis, Ind..	Charity Organization Society.....	27	169,164
Jersey City, N. J..	Organized Aid Association.....	16	206,433
Kansas City, Kan..	Associated Charities.....	6	51,418
Malden, Mass.....	Associated Charities.....	3	33,664
New Britain, Conn.	Charity Organization Society.....	7	25,998
Newport, R. I....	Charity Organization Society.....	14	22,034
Newtonville, Mass.	Associated Charities.....	5	33,587
New York, N. Y....	Association for Improving the Condition of the Poor.....	62	3,437,202
New York, N. Y....	Charity Organization Society.....	117	
Orange, N. J.....	Bureau of Associated Charities..	3	24,141
Philadelphia, Pa...	Society for Organizing Charity...	80	1,293,697
Plainfield, N. J....	Organized Aid Association.....	14	15,369
Portland, Me.....	Associated Charities.....	2	50,145
Portland, Ore.....	City Board of Charities .....	3	90,426
Somerville, Mass...	Associated Charities.....	5	61,643
Washington, D. C..	Associated Charities.....	5	278,718
Wilmington, Del...	Associated Charities..	4	76,508
Worcester, Mass...	Associated Charities.....	23	118,421
25 cities	26 societies	574 records	

## VALUE OF THE RECORDS

These five hundred and seventy-four records afford no evidence whatever as to the prevalence of desertion nor as to the amount of destitution that it causes. Reports of charitable societies show that from year to year deserted families form between seven and thirteen per cent of the total number of families in charge. Twenty-five per cent of the commitments of children to institutions in New York city are attributed to desertion. There are no facilities for estimating the general extent of the practice in any city, because it is only when the family is obliged



to ask for help outside its immediate acquaintance that the facts become known. That there are many deserted families who get along without charitable assistance is evident from the very considerable number among these five hundred and seventy-four, who, although the husband had deserted before, had never before been dependent. There are many cases in which the wife, without assistance, gets her deserting husband placed under order to pay a certain amount weekly for her support and needs nothing more. The alimony clerk in New York city collected about \$110,000 in 1904, two-thirds of which was from deserting husbands, and he has constantly about eight hundred of them on his books. There are other cases, though probably not many, in which the man leaves his wife and children without warning and stays away, but provides that they shall not come to want. An instance of this recently came to the notice of a society quite incidentally. The husband had gone away nine years before and on each of the four hundred and fifty or more Friday evenings since then a messenger had brought his wife an envelope containing three dollars, but no word either oral or written. Nor had she asked any questions of the messenger, being well satisfied with the arrangement. There were no children and she was able to maintain her standard of living on the amount provided. All such cases, in which the absence of the head of the family does not mean destitution, are not strictly desertion; and with them, as with those others in which destitution is obviated by help from relatives or friends or resources within the family, the public has no concern.

The value of these records, therefore, is that they reveal the characteristics and circumstances of five hundred and seventy-four families who were compelled, by reason of the desertion of the husband and father, to ask for help of some sort.

#### PREVIOUS DEPENDENCE

Two hundred and thirty-five of them (forty-one per cent) had never been dependent before, so far as was known, although in sixty-seven of the two hundred and thirty-five the man was known to have deserted at least once before. On such occasions relatives or friends had helped, or, as in the case of one family

which had been through "about seven" previous desertions, the wife had always been able to step into the wage-earner's place. In regard to sixty-nine families information on this point of previous dependence was wholly lacking.

Two hundred and sixty-six were known to have been dependent before, one hundred on account of previous desertions, forty-six more on account of non-support, twenty-five on account of the man's intemperance or other bad habits, and two because he was imprisoned; in only twenty-five cases was "lack of work" assigned as the reason for previous dependence; in twenty-eight it was attributed to illness, accident or mental disability of some member of the family; in one to the intemperance and general worthlessness of both man and woman; in another to the woman's intemperance; and in still another to her begging habits (meaning, presumably, that she had asked for help, and succeeded in getting it, when it was not needed); in one instance the agent seems to have adopted the man's point of view, for she says that the family had been dependent before "because the woman did not work steadily;" three women had received assistance before on the occasion of the death of a former husband; and in thirty-three cases no explanation was given. One woman had been dependent before because she had been deserted by a former husband. A close scrutiny of the rest of the record fails to indicate any reason why she should have had such bad luck, for she was a neat housekeeper, a good mother, had a pleasant disposition, and helped support the family. In one family the man, and in another the woman, "came of a dependent family," and still another family had been dependent for six years "on churches, private individuals, the city, and many relief societies."

There are thus a few indications of degenerate stock and a few of misfortune, but in the great majority of cases the man's failure to do his part seems to account for whatever dependence there had been. If to the two hundred and thirty-five cases in which there had been no previous dependence be added the one hundred and forty-six in which previous dependence was attributable to previous desertions or non-support it appears that at least two-thirds of these families need never have been dependent.

## PREVIOUS DESERTIONS

Eighty-four of the men were known to have deserted once before the present occasion; thirty-eight, twice before; and 112, three times or more, of whom seventy-four had left "many times" or "repeatedly." If the 122 who had deserted once or twice before be considered on the road to the last class it would appear that 234 altogether, about forty per cent of all, belong in the class of "chronic deserters."

TABLE II. PREVIOUS DESERTIONS

	Number	Per cent
No record of any.....	340	59.24
1 known.....	84	14.63
2 ".....	38	6.62
3 ".....	18	3.14
4 ".....	5	3.48
5 ".....	4	
6 ".....	2	
7 ".....	4	
8 ".....	3	
9 ".....	2	12.89
"Many" known.....	74	
Total.....	574	100.00

This is a larger proportion than the Boston study showed, but not nearly so large as was found among the 211 Philadelphia cases. The true proportion can not be ascertained because, on the one hand, some of those who have deserted two or three times may be "reclaimable," to use another of the Philadelphia phrases; and, on the other hand, the absence of information in regard to previous desertions is not proof that they have not occurred, nor is there any assurance that this first occasion is not merely the first of a series. There is at any rate sufficient evidence that this is a habit very easy to form.

## LENGTH OF ABSENCE

In 113 of the 340 cases in which there was no record of a previous desertion this first one may have been final, for the men had been away more than a year, thirty of them between

five and ten years, two thirteen and two fourteen years. It is difficult to fix on a period of time after which the reappearance of the husband may not be expected. A Russian peddler, for example, is known to have left his wife and five children for three years, then returned to grace his home for a season, only to desert again and stay another three years. Such instances, however, are exceptions. Generally a man who stays away a year on his first escape into freedom does not return to his original fetters, though he may be correspondingly ready to assume new ones in new scenes.

TABLE III. LENGTH OF ABSENCE IN THE 340 CASES IN WHICH THERE WAS NO RECORD OF A PREVIOUS DESERTION

Less than 6 months.....	89	8 years.....	4
6 months to 1 year .....	32	9 " .....	3
1 year .....	35	10 " .....	2
2 years .....	18	13 " .....	2
3 " .....	13	14 " .....	2
4 " .....	13	Not given.....	106
5 " .....	11		
6 " .....	5		
7 " .....	5		
		Total.....	340

#### THE DESERTION HABIT

Among the chronic deserters there are "intermittent husbands" who desert systematically on the recurrence of certain conditions in the family. Some leave just before or just after the birth of every child; others after every unusually serious quarrel; others at the beginning of winter; others whenever they lose their job, or, more frequently, when their wives make the unreasonable demand that they help support the family. It would be expected that repeated desertions would progressively weaken the tie that originally bound the man to his family, until the time would come when he would stay away altogether. In some cases this does happen. One man, for example, living in a town in the Mississippi valley, left for three weeks in 1891, when his first child was a baby; in 1893, when the second child was born, he went away again, and stayed a year; in 1896 he was away again for almost a year; after a few weeks at home he left again for three years; but again he returned for a short time; when the record was made out he had been gone another three years. In other cases there is no evidence of such a tendency. Sometimes the husband

absents himself on the occasion of domestic discomfort, presumably on the theory one of them enunciated, "There is no reason why we should all suffer," but returns when the crisis is over with affection undiminished, or, to put the case in another way, with fresh conviction that on the whole it is preferable to depend on his wife for his main support.

After a man has abandoned his family for the first time, he may either stay away altogether, or he may return, voluntarily or as a result of persuasion. If he returns the probability is that he will leave again whenever it suits his convenience and that the time will come when his defection will be final. The habit of evading responsibility seems to be peculiarly easy to acquire, especially when the responsibility is promptly assumed by someone else and nothing happens, in consequence of the evasion, to cause discomfort to the evader.

#### THE CHILDREN AFFECTED

These 574 men abandoned 574 wives and 1,665 children, including the 102<sup>1</sup> who were born just before or not long after the desertion. Including the 102 babies there were 476 children under five years of age, 861 between five and fourteen, and only 240, less than fifteen per cent of all, fourteen years old or more.

TABLE IV. AGE OF CHILDREN

	Number	Per cent
Total under 14.....	1,337	80.30
Under 5.....	476	28.59
5-13 .....	861	51.71
14 and over.....	240	14.41
Not stated.....	88	5.29
Total.....	1,665	100.00

The total number of children affected was 1,665, or an average of about three to each family. More significant than this average is the table showing the number of families of each size. The prevailing type is evidently not a large family, but rather one with two or three children, families with less than four forming seventy per cent of all.

<sup>1</sup> In two cases there were twins.

TABLE V. SIZE OF FAMILIES

Families		Number	Per cent
Without children.....		20	3.48
With 1 child .....		103	17.94
“ 2 children .....		154	26.83
“ 3 “ .....		125	21.78
“ 4 “ .....		75	13.07
“ 5 “ .....		47	8.19
“ 6 “ .....		26	4.53
“ 7 “ .....		14	2.44
“ 8 “ .....		4	0.70
“ 9 “ .....		3	0.52
“ 10 “ .....		1	0.17
“ 11 “ .....		2	0.35
Total.....		574	100.00

## ADDITIONAL MEMBERS OF THE HOUSEHOLD

In ninety-eight families the household contained one or more persons in addition to the immediate family. In seventy-eight of these, almost four-fifths, the additional members of the household were relatives of the woman, and must often have been a serious complication in the family life, as for instance when they were her mother, brother and three sisters, or a sister with two children and a grown son, or a cousin who “had excited the husband’s jealousy,” or four grown children by a former marriage. Others, on the contrary, were wholly desirable. In one case the woman had within the year taken two little nieces out of an institution and her husband was said to be very fond of them; in several cases the five, six or seven dollars a week paid by a brother for his board was probably a chief part of the family’s income; in others the woman’s mother or sister relieved her of many housekeeping duties, so that she was free to be a wage-earner, which must have been, from the husband’s point of view, a distinct advantage. Only two of the men had their mothers with them, in contrast to forty-six of the women, but this may not be far from the usual proportion. Two of these families were living with the wife’s parents and another had effected a combination with a family not related. Lodgers were mentioned in only four cases, and it seems that there must have been more, except that few of these homes could have been a comfortable

place to live. In one family there was an adopted child and in another, a feeble-minded girl, not a relative, whose presence was not explained.

There are not yet any statistics by which to decide whether this was an unusual number of outsiders, but it is evident that in some instances they were a difficult element in the family life.

TABLE VI. MEMBERS OF THE HOUSEHOLD OUTSIDE THE IMMEDIATE FAMILIES

None .....	476
Man's mother.....	2
"    nephew (9 years old).....	1
Woman's mother .....	29
"    "    and father .....	8
"    "    father and brother .....	1
"    "    "    "    a lodger .....	1
"    "    and brother.....	3
"    "    brother and three sisters.....	1
"    "    and sister.....	3
"    father .....	1
"    "    brother and sister .....	2
"    "    "    "    grandmother .....	1
"    brother .....	6
"    "    and sister.....	2
"    "    and two sisters, and man's sister...	1
"    "    and his wife .....	1
"    "    and his son .....	1
"    sister .....	6
"    three sisters.....	1
"    sister and her child.....	1
"    21-year-old son by a former marriage, her sister and two children.....	1
"    children by a former marriage.....	5
"    nieces .....	3
"    cousin (man).....	2
An adopted child.....	1
Son-in-law .....	1
"    and two children.....	1
A feeble-minded girl, not related.....	1
A woman friend.....	3
Lodger .....	3
Other members indicated, but relationship not stated	2
Living with woman's parents or another family.....	3
Total.....	574

## NATIONALITY

The number of nationalities represented among these families suggests that desertion is a failing common to the human race, not confined to any particular sections of it. Its relative prevalence among the different nationalities is not indicated by the following table,<sup>1</sup> nor by any figures at our command, but it is interesting to see how the 574 men and women were distributed.

TABLE VII. NATIONALITY

Born in	Men	Women
Bohemia .....	4	4
British America.....	22	33
England and Wales.....	23	18
France .....	2	2
Germany .....	34	33
Hungary .....	5	8
Ireland .....	78	103
Italy .....	20	12
Lithuania .....	2	3
Russia and Poland.....	25	25
Scandinavia .....	13	14
Scotland .....	9	3
Spain, Portugal and the West Indies .....	5	4
Switzerland .....	3	1
Syria .....	2	2
United States (white) .....	222	231
“ “ (Negro) .....	33	40
“ “ (Indian) .....	1	0
No information.....	71	38
Total.....	574	574

Husband and wife were of the same nationality in 361 cases; different, in 138; and in seventy-five the nationality of one or other was not stated. The 138 cases in which there was a difference formed about twenty-eight per cent of the 499 for which information on this point was given. The difference varied from one so slight as that between a German and an American of

<sup>1</sup> For example, among the New York records there are almost no Jewish cases, because the United Hebrew Charities, having made an investigation in this subject a year or two previous, did not care to supply any material for this undertaking. This omission makes the number of Russian, Polish, and Hungarian cases comparatively small.



German parentage, or a Dane and a Swede, to the great gulf between a North American Indian and an Irish girl. In the general population of the United States in 1900 only 8.5 per cent was of mixed parentage, and for New York city the proportion was less than thirteen per cent. This fact, that a difference in nationality was more than twice as frequent among the cases of desertion as among the general population of the city where it is most common, suggests that this may help to explain the situation.

#### RELIGIOUS BELIEF

The religious belief of the husband and wife was the same in 363 cases; it was different in eighty-six cases; in the other 125 the church connection of one or of both was not stated. The eighty-six cases in which there was a difference formed nineteen per cent of the total number for which information on this point was available. There are no figures for the general population which makes it possible to determine whether in this group of families there was more than the ordinary amount of divergence in religious faith. The proportion does not seem abnormal; but it is probable that questions of this sort assume an extraordinary importance in daily life near the economic line that divides the dependent from the independent. The pressure of the problem of existence, which might be expected to monopolize attention, is counteracted by a paucity of general interests and by a lower average of tolerance for differences of opinion. The man who works only intermittently has leisure for theological discussion. For this reason differences in religious faith, even if they are no more frequent, relatively, than in the general population, may be an element of incompatibility that contributes appreciably toward causing desertion; and, in fact, a quarrel "over religious matters" is mentioned in three of these cases as being the occasion of the desertion.

The relative value of the religious beliefs themselves in preventing disregard of family obligations, is, like the question of the influence of race characteristics, not touched by the figures at hand. The following table indicates merely that all churches, as well as all nationalities, are represented in the ranks of the deserters. It is noticeable in this table, as in most of the others

giving information about both the man and the woman, that the "unknown" element is much larger for the men. It is rather interesting, too, that there were more men than women who were reported to have no church connection whatever.

TABLE VIII. RELIGIOUS AFFILIATIONS

Church	Men	Women
Roman Catholic.....	229	280
Protestant .....	202	198
None .....	11	7
Jewish .....	8	10
Greek Catholic.....	1	2
Not stated.....	123	77
Total.....	574	574

## DIFFERENCES IN AGE.

Difference in the age of husband and wife is occasionally cited as a partial explanation for desertion. The theory is, presumably, that if the wife is decidedly older she assumes the leadership, to a certain degree, with the result that the husband's sense of responsibility remains embryonic; while on the other hand too great seniority on the husband's side may be the basis of decided differences in tastes, habits and ideals.

In ninety-eight cases the age of one or the other or both was not given; in fifty-two they were the same age; and in the other 424 the differences were as follows:

TABLE IX. DIFFERENCE IN AGE

Difference	Man older	Woman older
1 to 5 years .....	235	59
1 year .....	60	19
2 years .....	55	16
3 " .....	42	12
4 " .....	44	5
5 " .....	34	7
6 to 10 years .....	86	10
11 to 15 " .....	21	2
16 to 20 " .....	6	0
Over 20 " .....	5	0
Total.....	353	71

On this point, again, there are no figures for the general population with which to compare these, but the amount of disparity indicated does not seem large. Assuming arbitrarily that the disadvantages ascribed begin to operate when there is a seniority on the wife's side of five years, or of ten on the husband's, there are only forty-four cases, less than eight per cent, in which difference in age could have been an appreciable factor. In three or four instances it was assigned by the charity worker as an explanation for the desertion. In one of these cases the wife was fourteen years older and had besides a bad temper; in another she added the habit of religious cant to her seniority.

## AGE AT MARRIAGE

Early and ill-considered marriages are often considered accountable for much remissness in fulfilling obligations afterwards. The age at marriage was stated or could be estimated from other data in the case of 344 of the men and 362 of the women.

TABLE X. AGE AT MARRIAGE

Age	Men		Women	
	Number	Per cent	Number	Per cent
15-19 years.....	35	10.17	108	29.84
15 " .....			7	
16 " .....			9	
17 " .....	5		21	
18 " .....	6		27	
19 " .....	24		44	
20-24 " .....	139	40.41	157	43.37
25-29 " .....	86	25.00	58	16.02
30-34 " .....	54	15.70	26	7.18
35-39 " .....	19	5.52	10	2.76
40-44 " .....	7	2.04	2	0.55
45-49 " .....	2	0.58	1	0.28
50-59 " .....	2	0.58	0	0.00
Known ages.....	344	100.00	362	100.00
Age not stated.....	230		212	
Total.....	574		574	

While most of these, sixty-five per cent of the men and fifty-nine per cent of the women, had married between the ages

of twenty and thirty, there was a considerable proportion of youthful marriages, thirty per cent of the women and ten per cent of the men having married before they were twenty, seven of the women at fifteen. It is also noticeable that nine per cent of the men had married after the age of thirty-five, and eleven per cent of the women after thirty, the highest age among the men being fifty-six and among the women forty-six.

#### OTHER CIRCUMSTANCES OF MARRIAGE

Impulsive youth and intolerant maturity are probably the explanation for a few of the misfits, and if it were possible to know other circumstances of marriage, doubtless we should in many cases find cause for surprise that the family kept together as long as it did. In nine cases it was known that the man had been forced to marry in order to legitimate the child about to be born. One of these men was butler in the house where the girl was a maid; their employer persuaded them to marry, but he deserted her within a few weeks. There are other instances of short or casual acquaintance which culminated in a marriage of brief duration. A German married an Irish girl a few weeks after their first meeting, but soon left her for another woman. One man, who had been an English soldier, married a cook in his regiment. There are also examples of the widower who marries to get a housekeeper, and later regrets that the arrangement was not on an economic basis. One of the deserted wives felt sure that her husband married her in order to provide good care for the children of his first wife. Apparently he found her so satisfactory in that capacity that he felt no further responsibility for the children.

#### YEARS OF MARRIED LIFE BEFORE DESERTION

In over half the 574 cases (298) it was possible to calculate how long the man had been married the first time he deserted. Almost half of them (137) deserted for the first time within five years after marriage, twenty within the first year.

It might be argued that cases of desertion in the later years of married life, after one or more children have grown to wage-earning age, are not so apt to necessitate dependence, and that

for this reason their true proportion is not evident from these figures. From the point of view of statistical technique the ground would be well taken. Still there is every reason to believe that as a matter of fact the limited experience of charitable societies does represent the true state of affairs. It is in the first years, while the process of adjustment is going on and the birth of each child comes as a distinct complication of the economic problem of the family, that the strain is the greatest. A man who has any disposition to escape from the burden of his family is apt to encounter an occasion for doing so within a few years after his marriage. Later, when the children are half-grown, there is less temptation, and he has also the habits of years to restrain him. In view of these considerations it is surprising that the proportion of those who had been married over ten years is so large, and it is difficult to imagine the occasion which would impel a man to break away, as happened in three of these cases, from the associations and habits of twenty-three years.

TABLE XI. YEARS MARRIED AT FIRST DESERTION

	Number	Per cent
1-5 years.....	137	45.97
Less than one year....	20	6.71
1 year.....	20	6.71
2 years.....	27	9.06
3 ".....	26	8.73
4 ".....	24	8.05
5 ".....	20	6.71
6-10 ".....	84	28.19
Over 10 years.....	77	25.84
Total known.....	298	100.00

## THE DESERTER

In many cases, it is evident from the records, the deserting husband, who is, after all, the most important feature in the situation, is an unknown quantity. One agent said in reference to one of them, "I know nothing whatever about him except that he is a big, handsome man." Often even such superficial acquaintance is not possible. But sufficient information was given about many of them to make it possible to form a fairly clear idea of the prevailing type among them.

## AGE

Most of them, as would be expected from the figures already given, were young men when they first deserted. Almost a third were below the age of thirty and four-fifths were under forty, while only eleven out of the 363 whose ages were known were over forty. The one over sixty was a Negro in a New England town, who deserted a recently married young wife and "three sets" of his own children.

TABLE XII. AGE OF MAN AT TIME OF FIRST RECORDED DESERTION

Age	Number	Per cent
21-24 years.....	38	10.47
25-29 " .....	84	23.14
30-34 " .....	97	26.72
35-39 " .....	76	20.94
40-44 " .....	41	11.29
45-49 " .....	16	4.41
50-54 " .....	8	2.20
55-59 " .....	2	0.55
60-64 " .....	1	0.28
Total known.....	363	100.00

## PHYSICAL CONDITION

Most of the men were able-bodied and moderately able-minded. In only fifty-one cases altogether, less than nine per cent of all, was any physical or mental disability mentioned, and in 412 cases the positive statement was made that no disability existed.

TABLE XIII. PHYSICAL AND MENTAL CONDITION OF MEN

No information.....	111
No disability.....	412
Ill .....	23
Crippled, in most cases slightly.....	9
Blind .....	1
Partially blind.....	6
Constitution ruined by morphine.....	1
Feeble from age.....	1
Not strong.....	4
Melancholic, insane, or unusually stupid.....	3
Mind affected as result of accident.....	3
Total.....	574

Among the twenty-three who were ill there were two cases of tuberculosis, one of cancer, one of venereal disease, one of epilepsy, four of rheumatism, and one of paralysis. The other ailments would not seriously affect the man's earning power.

#### BAD HABITS

The freedom from physical disability is in striking contrast to the reports given of the man's character. Only sixty-two (eleven per cent) were said to have no bad habits; none were mentioned in 100 cases, but in most of these practically no information was given about the man. One or more bad habits were attributed to 412, exactly the same number as was reported able-bodied. Many exhibited a combination, as indicated in the following table:

TABLE XIV. BAD HABITS ASCRIBED TO 412 DESERTING HUSBANDS

Intemperance only.....	200
“ and loafing.....	45
“ and immorality.....	20
“ loafing and immorality.....	3
“ loafing and gambling.....	9
“ and dishonesty.....	4
“ immorality, gambling and loafing...	2
“ and cruelty.....	17
“ and a roving disposition.....	2
“ immorality and gambling.....	3
“ and gambling.....	17
“ immorality and cruelty.....	2
“ loafing, gambling and dishonesty....	1
Immorality only.....	19
“ and loafing.....	3
“ and gambling.....	3
“ and cruelty.....	2
“ and dishonesty.....	2
Loafing only.....	32
Gambling only.....	12
“ and dishonesty.....	1
“ and loafing.....	3
Cruelty only.....	1
“ and dishonesty.....	1
“No principles”.....	3
Dishonesty only.....	1
Roving disposition.....	2
Morphine habit.....	2

Three hundred and twenty-five altogether were said to be intemperate; there were two morphine eaters, fifty-one gamblers, and ninety-eight habitual loafers; fifty-nine were said to be immoral; twenty-three were cruel and abusive; ten were dishonest in varying degrees and various degrees and various lines; four were habitual rovers; three were said to be "generally unreliable" or to have "no principles." Of one it was said that "his only bad habit was politics."

#### CRIMINAL RECORDS

Seventy of the men were known to have had criminal records at some time and four were fugitives from justice. In twenty-eight instances the offence was not specified; in fourteen it was drunkenness, assault or disorderly conduct, or a combination, and frequently the man had been arrested several times; in six it was non-support; in seven, abuse of wife; five men had served sentences for theft; two for obtaining money under false pretenses, one for forgery, two for embezzlement, one for perjury, one for burglary, perjury and bigamy, two for illicit sale of liquor, and one for grand larceny and desertion from the army.

#### INSTITUTIONAL EXPERIENCE

The question about the man's institutional experience when a boy was not often answered, but it brought out several significant individual histories. Ten were known to have been in orphan asylums more or less; three had been brought up in one; one had spent eight years in various homes and almshouses, another six; and in one case both the man and his wife had been brought up in the same home and had married on leaving it. The average orphan asylum or almshouse of fifteen or twenty years ago was not particularly successful in fitting its beneficiaries for life in the world, and it seems hardly necessary to look farther for an explanation of the disregard of obligations in these cases.

#### OCCUPATION

The information given about the economic status of the men indicates possibilities rather than accomplishment. The ninety or more occupations cover a wide range. The professional and



TABLE XV. OCCUPATION OF DESERTING HUSBANDS

Occupation	Total	Did not work regularly	Occupation	Total	Did not work regularly
Laborer.....	88	50	Janitor.....	2	1
Driver.....	34	16	Musician.....	2	1
Carpenter, etc.....	30	13	Polisher.....	2	1
Factory employee...	21	15	Printer.....	2	1
Painter, plasterer, etc.	18	15	Salesman.....	2	2
Machinist.....	14	8	Sea captain.....	2	1
"Railroad man"....	14	5	Tinsmith.....	2	1
Hostler.....	13	7	Wood turner, carver..	2	1
Various occupations.	13	9	Boatman.....	1	0
Waiter.....	13	7	Brass finisher.....	1	1
Clerk, bookkeeper...	11	6	Commission mer- chant.....	1	0
Engineer.....	12	3	Coffee inspector....	1	0
Barber.....	9	5	Derrick man.....	1	1
Peddler.....	9	5	Detective.....	1	0
Electrician.....	8	2	Dyer and cleaner....	1	1
Moulder.....	8	5	Egg inspector.....	1	0
Canvasser, collector, agent.....	7	2	Fireman in Fire De- partment.....	1	0
Fireman.....	7	4	Fisherman.....	1	1
Longshoreman.....	7	7	Florist.....	1	0
Mason.....	7	4	Inspector of Gorge Route at Niagara Falls.....	1	0
Storekeeper.....	7	1	Laundryman.....	1	1
Blacksmith.....	7	3	Locksmith.....	1	1
Tailor.....	6	3	Lumberman.....	1	1
Conductor, motor- man.....	5	2	Milkman.....	1	0
Cook.....	5	4	Mosaic worker.....	1	1
Shoemaker.....	5	3	Naval architect.....	1	0
Baker.....	4	0	Nurse.....	1	0
Helper.....	4	3	Packer.....	1	0
Plumber.....	4	3	Photographer.....	1	0
Sailor.....	4	2	Physician.....	1	0
Saloonkeeper, bar- tender.....	4	4	Prize fighter.....	1	1
Servant.....	4	1	"Indian" doctor....	1	1
Boilermaker.....	3	1	Real estate dealer...	1	1
Butcher.....	3	1	Reporter.....	1	1
Decorator.....	3	0	Scissors grinder....	1	0
Foreman.....	3	1	Steeplejack.....	1	1
Farmer.....	3	2	Stone cutter.....	1	0
Iron worker.....	3	0	Ticket speculator...	1	1
Miner.....	3	0	Translator.....	1	1
Porter.....	3	3	Walking delegate...	1	0
Steward.....	3	1			
Telegraph operator..	3	1			
Watchman.....	3	2			
Artist.....	2	2	Total known occupa- tions.....	493	255
Cigarmaker.....	2	0	Occupations not stated.....	81	10
Coachman.....	2	0			
Harnessmaker.....	2	0			
Horse trainer.....	2	0	Total.....	574	265

literary class was represented by two artists, two musicians, two physicians, one of whom was an "Indian doctor," a prize-fighter, a translator, a reporter, and a man who had been a religious evangelist but was in a factory at the time of his desertion. There were three farmers, two sea-captains, four sailors, a fisherman, and a boatman, a commission merchant, a walking delegate, and a real estate dealer. Twenty had small shops, and there were thirteen clerks, bookkeepers and salesmen. Unskilled laborers formed the largest single class, but they were only ten per cent of all; and if to the laborers be added the drivers, longshoremen, peddlers, hostlers, servants, "helpers," watchmen, porters, janitors, and the thirteen jacks-of-all-trades whose genius was not limited by the exigencies of any one occupation, it appears that the total number of the comparatively unskilled was 180, or thirty-six per cent of the total number whose occupations were given. All of the other 249, or fifty-one per cent, had definite trades or occupations in which training was required, many of them implying a high degree of skill. Only sixty-three were known to be union members; three had been dropped from the union list on account of non-payment of dues.

#### EARNING CAPACITY

The wages varied as much as did the occupations, ranging from the uncertain small sums of the peddlers to "as much as fifty-five dollars" in the case of the prize fighter. The wages of 286, almost half of all, were given, as follows:

TABLE XVI. USUAL WAGES PER WEEK WHEN WORKING

Wages	Number	Per cent
Less than \$9.....	49	17.13
\$9-\$11 .....	75	26.22
\$12-\$14 .....	75	26.22
\$15-\$19 .....	57	19.93
"Good" .....	7	2.46
\$20 and over.....	23	8.04
Total known.....	286	100.00

#### WORKING HABITS

Considering the average size of the family and the great numbers of families who live on two dollars a day, or less, this table

indicates that a large proportion of these men were quite able to support their families. The large amount of intemperance and laziness among them, however, much reduced their earning capacity. Only 175 were said to have been accustomed to work regularly, while 265 were known to have been irregular; in 134 records the question was not answered. Of several it was said that "he could have had steady work if he had wanted it," or that "he could always get work but never kept it." One man "rarely worked," another "never if he could help it," and another "never more than four months at a time." Of one man it was reported, rather significantly, that he "worked regularly when not intoxicated."

Although only 175 were in the habit of working regularly 270 were known to have been working just before they deserted, and several had savings which, providently, they took with them. One man had eight hundred dollars in the bank. Of the 134 who were out of work at the time of desertion, only nineteen were in the habit of working regularly. One of these nineteen left in a fit of despondency over his recent blindness and another was seriously ill; in only one instance is it clear that the idleness was due to a dull season in the man's trade. Two or three had recently lost good positions or had failed in business on account of intemperance or untrustworthiness. In the cases of the other men the reason why they were out of work is not apparent, but there is no evidence that it was because of industrial conditions.

How far the seasonal character of many occupations is responsible for the irregularity of employment is not apparent. The following table, however, of the different occupations, shows that there were men in almost all of the irregular trades who did work regularly, and that, on the other hand, there were men in occupations for which there is a steady demand, who never worked steadily.

Putting together what is known of the men's habits and what is known of their earning capacity, it seems fair to conclude that when lack of employment is the apparent cause of desertion, it is probably only the occasion for it, and that the same characteristics which make a man desert when he is out of work are responsible for his not being steadily employed.

## THE DESERTED WIFE

As there is one temperament which ascribes most of the desertion to industrial conditions, so there is another which inclines to throw most of the blame on the wife's inefficiency or impossible temper. Advocates of this theory hold that an explanation of the marriage is more needed than of the desertion. There was no way of securing information about the wife's qualities at the time of her marriage. The descriptions we have of her apply to the present time, after at least several years of a married life which in many instances included supporting husband and children by her own work and bearing with the husband's serious faults. It is therefore probable that a considerable part of the bad qualities enumerated have been acquired or at least developed since marriage.

It may be objected by some that the charity worker's sympathy with the deserted family would result in an understatement of the woman's shortcomings. By others the traditional severity of women to another woman's defects is cited as a reason for expecting an overstatement. On the whole it would seem that these two tendencies might be trusted to counteract each other, giving us a picture that may be accepted as a fairly faithful likeness.

Two hundred and ninety-nine of the 574 wives were said to be good housekeepers; fifty-eight more were only "fair;" and 108 were said to be decidedly untidy. This question was not answered in the other 109 cases. Three hundred and thirty-three of them were considered good mothers, but occasionally with some such qualifications as "kind but ignorant" or "as far as she knows how." The standard of both housekeeping and mothering is, of course, not arbitrary but relative, and qualifications must be understood where they are not stated. Twenty of the women had no children and in 150 cases this question was not answered. There were seventy-one mothers who were said to be distinctly "not good," either because of their bad habits or carelessness or tendency to over-indulgence or inefficiency.

## BAD HABITS

Bad habits were attributed to 109; 274 were said to have none, and in 191 cases no comment was made on this point.

In the hope of getting at other characteristics which have a bearing on the situation the question was asked, "Has she any significant peculiarities of temperament?" "Peculiarities," as distinguished from "bad habits," were ascribed to 138; 180 were said to have no peculiarities or at least, as was added in one case, none "other than are to be expected in a mother with a small and uncertain income;" and no comment was made in regard to 256. The 109 who had bad habits and the 138 who had peculiarities were not mutually exclusive, nor, on the other hand, were all the 109 included among the 138, though there were many duplicates.

It was not altogether easy to draw the line between "bad habits" and "peculiarities," but after some reflection it was decided that in a woman who had a family of small children to care for without assistance and often to support as well, "unrestrained novel reading" attained the eminence of a bad habit, but that the woman whose "only bad habit was that she took snuff" probably belonged among those with a clear record.

The bad habits of the women are a paltry collection in comparison with those of the men. Forty-three of the women altogether were intemperate, twenty-four were shiftless or lazy, twenty were dishonest or untruthful, nineteen were known or supposed to be immoral, six were extravagant, three had a strong tendency to beg, two kept disorderly houses, one had been arrested for selling liquor illegally, one for fighting, and one was accused of being an inveterate novel reader. Although the showing is much better for the women than for the men still there is enough that is discreditable here to indicate that some of the failure to keep a happy home was due to the woman, and some indulgence is ready for the man whose wife was both lazy and extravagant or for the one whose wife was accustomed to "drink, beg, fight and lie," even though the men were not much better. The bad habits were distributed among the 109 women as follows:

TABLE XVII. BAD HABITS OF WOMEN

Intemperance .....	38
Intemperance and immorality.....	3
Intemperance and dishonesty.....	1
Intemperance, fighting, begging and lying....	1
Immorality .....	16
Shiftlessness .....	21
Shiftlessness and dishonesty.....	2
Shiftlessness, dishonesty and extravagance....	1
Dishonesty, untruthfulness.....	15
Extravagance .....	5
Begging .....	2
Keeping a disorderly house.....	2
Illegal selling of liquor.....	1
Novel reading.....	1

## PECULIARITIES OF TEMPERAMENT

It is sad, but undeniable, that a vice or a bad habit may be much easier to live with than some little idiosyncrasy of no ethical bearing. For this reason the list of peculiarities of temperament has perhaps more significance than this list of bad habits. The religious fanatic, for example, who was also deaf and suspicious, must have been a trying companion. One woman was said to be "impossible to live with;" another had the unfortunate habit of "making complaints in court" against her husband, which no spirited man could be expected to endure long. Over-indulgence of husband and children is charged to one woman. This would seem to constitute a reason why he should stay with her, but it must have operated to make him feel free to take advantage of her indulgence when an occasion presented. One woman was "too fond of amusement" properly to discharge her home obligations. One was "sullen," one "rough," one "stubborn and resentful," and one "a mischief-maker." The habit of "talking vaguely at great length" can not strictly be called a peculiarity of temperament but in its effect it seems to belong in this catalogue. One woman was reported in this connection as being "slow of speech," and in a moment of indulgence to the possibly sensitive nerves of her husband we are allowing this characteristic also to stand as a discredit to the wife. Fifty

women had a quick, uncertain, or violent temper, and one of them was called by her friends "the Savage." Nine were "quarrelsome," several among these being also eccentric or suspicious or incompetent. Fifteen were nervous, excitable and unreasonable, hysterical, irritable, morbid or over-sensitive, ("over-sensitive," presumably, to be content and uniformly agreeable under her conditions of life). Nine were fretful, whining, or "nagging," or chronic "scolds," qualities that are no more acceptable to the husband when he is the sufficient reason for them than when he is himself blameless. Eight of the women were jealous, one of them "unreasonably so," and most of them adding quick tempers to their jealousy. Four were obstinate, stubborn, or intractable; two "proud and reserved," which from the husband's point of view was doubtless interpreted as "stuck-up;" three others had a "trying" disposition, the particular feature that made it trying not being specified; and three were of a despondent temperament that was easily discouraged. Six were peculiar or eccentric, three of them to the point of being thought insane at times, and seventeen were "rather weak" or "had no judgment" or were "too easy-going."

While one would not choose any of these "peculiarities of temperament" as a characteristic in a constant companion, and it must therefore be admitted that all of them are "significant" in an endeavor to understand the disruption of the 137 families affected by them, still none of them is sufficient to justify in the least the man's failure to meet his obligations.

#### OCCUPATION BEFORE MARRIAGE

The economic status of these 574 women was much less favorable than that of their husbands. Two hundred and ninety-eight of them were known to have earned their living before marriage, and the occupations by which they did so indicate a lower average of skill and capability than did those of the men.

TABLE XVIII. OCCUPATIONS OF WOMEN BEFORE MARRIAGE

Domestic service.....	117
Day's work or washing and ironing.....	69
Factory worker.....	36
Sewing .....	30
Shop girl.....	10

TABLE XVIII. CONCLUDED

Operator .....	4
Field hand (in Austria, Russia or Italy) ..	4
Bookkeeper and clerk.....	3
Music teacher.....	2
Boarders .....	2
Millinery .....	1
Nurse .....	1
Lady's maid.....	1
Unknown .....	18
Total.....	<u>298</u>

## OCCUPATION AFTER MARRIAGE

It is interesting to find that 320 of the women had helped earn the family income after marriage—a larger number than was known to have worked before marriage. While this is partly due, no doubt, to a greater number of omissions in the list of occupations before marriage, as known to the charity worker, still the natural inference from the figures is probably justifiable, that most of these women did not find in marriage any release from the necessity of working for wages. This does not mean that 320 were regularly employed, though many of them were, but that they were accustomed, whenever their own health allowed or the husband's conduct compelled, to assume his part of the responsibility for the family, in addition to their own.

One hundred and seventy-two were working at the time of the latest desertion. The fact that many of the husbands who were not accustomed to work regularly were employed at the time, and the physical condition of many of the women, explain why the number was not larger.

TABLE XIX. OCCUPATIONS OF THE 172 WOMEN WHO WERE WORKING AT TIME OF HUSBAND'S DESERTION

Washing.....	60	Midwife.....	1
Day's work.....	49	Fortune telling.....	1
Sewing.....	19	Farming.....	1
Boarders.....	10	Berry picking.....	1
Factory.....	6	Passementerie work.....	1
Shop.....	6	Work on cards at home.....	1
Domestic service.....	5	Peddling.....	1
Janitress.....	2	Unknown.....	5
Operator.....	1		
Music teacher.....	1	Total.....	<u>172</u>
Nurse.....	1		



The occupations represented in this list are hardly more numerous, and the average is, if anything, a lower grade than that of the previous list. The difficulty of leaving home regularly is reflected in the change in relative importance of domestic service and washing and day's work, and in the smaller proportion of factory employees.

It is evident that the wife is an important economic factor; that she is not nearly so well-equipped, even relatively, as is the husband; and that in her efforts to supply deficiencies in the family income she is seriously hampered by the necessity of finding work that does not require long or continued absence from home.

#### CIRCUMSTANCES OF DESERTION

The circumstances under which the man left his family have so much significance that they would give a fairly definite idea of him and some indication, occasionally, of his wife, if no other information were available. In 323 of these 574 cases the circumstances attending the last desertion are given, more or less vividly. One hundred of the men, almost one-third, left a short time before, or just after, the birth of a child; sometimes after a quarrel or while drunk, but more often "quietly," as was said of one man, "without any disturbance." It seems the height of pathos that the child born on the day this man went away should be named for him. Three of the hundred who abandoned their wives just before confinement added insult, literally, to injury, by going with another woman.

Twenty-two other men left behind them sickness or death: in one house the baby had just died, in another one was dying; in two the children were ill, in two others both wife and children; and in sixteen the wife was seriously ill. One of these women was left dying of consumption, without food or care; and another almost dead from abuse inflicted on her return from the hospital where she had been undergoing a serious operation, was left alone in the house just after a dispossession had been served. Her husband was said to be "one of the wickedest Negroes in town."

A quarrel was the immediate occasion of the departure in fifty-seven cases: one man had been having a fight with a neighbor, another had a serious disagreement with his daughter,

and fifty-five had been quarreling with their wives—"over religious matters," "over the breakfast," "because she had asked him to go to work" or had refused to support him any longer, or "had found fault with his ways," or some unspecified but doubtless equally irreconcilable difference of opinion; one had been "beating his wife with a stove-lifter, but when a neighbor interfered he ran away and stayed four years."

Forty-eight went just after a spree or while drunk, and another left an intoxicated wife behind. Thirty-four fled to avoid arrest—for non-support, for drunkenness and abuse of wife, for theft or embezzlement, or, in one case, for seducing his wife's young sister. Three were heavily in debt and went away to escape the consequences. Eighteen were known to have gone away with another woman.<sup>1</sup> One of these sent his wife, who was helpless from paralysis, and the children, home to Sweden for a pleasure trip, disposed of his mother-in-law by arranging a visit for her, and disappeared with another woman before they returned. After he heard that his wife was back in America, dependent on charity, he began sending a dollar a week "for the boy." Another man sent his wife to Ireland for her health and meanwhile "got interested" in his landlady. In three cases the wife had been away on a visit and returned to find that the man had sold the furniture and disappeared.

Only seventeen left in discouragement about work or with the avowed purpose of looking for work and one of these had given up his job voluntarily to go to Alaska at the time of the Klondyke excitement. One man started out avowedly on a pleasure trip to the Saint Louis Exposition, but did not return; another put on his best clothes, took all his money, and announced that he was going fishing. Two of the men were ill and one was despondent over his blindness. One had been gambling; one had just succeeded in getting possession of his wife's property; another had in some way obtained money from a girl; and still another had just received his pay. Three disappeared when they were discharged from the workhouse, after serving a term for non-support, and one on his release from an inebriate asylum.

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<sup>1</sup> There were thirty-five other cases in which another woman was believed to be the explanation of the desertion, though the man was not known to have left with her.

One man went to Russia "to look after his property" and neither returned nor wrote. Another man enlisted in the army, for the Spanish war, and did not return. Three men deserted when their wives were arrested, one of them for disorderly conduct, one for larceny, and one for adultery; one left after a fit of jealousy on his wife's part; and one could not endure learning that his wife had asked help from a charity organization society.

One hundred and three wives knew that their husbands were going, but this only means that they had been prepared for it by his threats, or that they knew he was going away for some purpose but expected him to return. The cases of authenticated "spurious deserters" among these are very rare, because the charity worker ceases to consider a family deserted when she finds that the husband is really lurking around to benefit by his apparent absence, and therefore did not include such cases among her reports. Only one case, in fact, in which connivance was clearly established, was found among the entire number. In this case the man had gone to Philadelphia from New York to take a course in dentistry and his wife applied for the commitment of her children on the plea that her husband had deserted her. Later it was found that her object was to be able to send him most of the money she was able to earn.<sup>1</sup>

#### EXPLANATION OF DESERTION

In finally forming an opinion as to why men desert their families advantage has been taken of all the information given in the record. The question, "What reason does the wife assign for the desertion?" was asked, and the charity worker was requested to make further suggestions as to circumstances that might help to explain the man's attitude to his family. When an answer was given to either one of these questions it was accepted as the explanation, provided there was nothing elsewhere in the record to make it seem unreasonable. When the wife's explanation was supplemented by the charity worker the answers were combined, but when there was an irreconcilable contradiction between the two the agent's explanation was accepted, as in such cases there was nearly always some information about

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<sup>1</sup> In a similar case not included among the records, the man was taking a course in a theological seminary.

the woman which explained her attitude. In some instances no answer was given to either of the questions but a sufficient explanation was at hand in the circumstances under which the man left home or in the information given about his character or the combined information about the man and the woman. In every case all the information available about the family was brought to bear in assigning the explanation. To guard against adding unjustly to the burden of blame which the man must bear under the most sympathetic interpretation of these records, the responsibility has been placed on external circumstances or on the wife whenever there was any question about where it belonged.

These explanations do claim to be causes. The assignment of causes is too delicate a matter to be undertaken on the basis of the incomplete knowledge which even the best records afford. Often nothing is known personally about the man, the main factor in the situation, even by the charity worker who is best acquainted with the family, and who is beyond question the best source of information about it. Her estimate of his characteristics and qualities must often be based wholly on what she hears about him and on the conditions which she sees he has left behind. Furthermore, an unconscious bias in her mind may lead her to exaggerate the importance of some causes and to imagine others. It is difficult to distinguish between a salient feature of the situation and the underlying cause, particularly if one has a preconceived notion that the salient feature in question is responsible for many of the evils of the world. To fix on the causes of desertion would require a full knowledge of all members of the immediate family, including the physical, mental and moral inheritance of both man and woman and their "bringing up," a thorough acquaintance with industrial conditions, and with the social standards of the national and economic group to which the family belongs, and an unprejudiced and discriminating mind to draw conclusions. The difficulty of securing this combination reconciles us to accepting "explanations," relatively superficial though they are, in place of attempting to assign causes.

In every one of the 574 cases, it goes without saying, the desertion would not have taken place if the man had had a stronger sense of his obligation to his family. In every case, also, the

man's sense of responsibility would not have been strained beyond the point of endurance if his wife had been altogether charming and efficient and able and willing to support him when he did not care to work, and if he had found it easy to secure lucrative employment when he was in the mood for it. It is even doubtful whether the fascinations of "another woman" would often have made themselves felt under such circumstances. In one sense, therefore, it is always the man's fault; in another it is always, also, the woman's; in still another, it is the fault of ungente circumstances. But generally there is a combination of responsibility, with a fairly clear indication of where the burden of it belongs.

An explanation of the desertion was arrived at, by one or other of the methods outlined, in the case of 386 of the 574 families. In the other 188 the information was not sufficient to justify a hazard at one.

What has been said in regard to the characteristics of the deserters and their wives and the circumstances under which they leave home has doubtless prepared the way for the results of this tabulation. In 245 cases, almost two-thirds of the 386 for which explanations were available, the chief responsibility for the disruption of the family seems to rest on the recreant husband; in forty-one cases, about twelve per cent, it seems to have been chiefly the wife's fault; in fifty-two, over thirteen per cent, man and woman seem to have been equally to blame; and in the other forty-three, almost twelve per cent, the immediate responsibility lay in circumstances outside the control of both.

In Table xx. these four main groups are broken up into more definite subdivisions.

Considering the fact that 325 of the men and forty-three of the women were said to be hard drinkers, it is rather surprising that intemperance is not more conspicuous in this list. Its relative unimportance is due in some cases to its being lost sight of in more serious faults; in others the effects of the intemperance on the character, rather than the intemperance itself, are looked upon as the explanation of the desertion.

The most striking feature of the table is the large amount of looseness it reveals in the marriage relation. In all there were

110 cases (twenty-eight per cent of the 386) in which irregularity in relations between men and women was the most prominent element in the breaking up of the family. Fifty-three of the men left their wives for "another woman," that is, a specific and definite woman whose attractions could not be resisted. In one of these cases the husband and wife were of different nationality and had known each other only three months before marriage. In another the wife went home to Italy for a long visit and returned to find that her husband had filled her place. Sometimes the wife was jealous and fault-finding and did not do her part in keeping a comfortable home, thus making her husband all the more susceptible to the charms of some one else. Some of the men settled down not far from their first home, one in the same block; others took their new brides as far away as possible—one from the East to the Pacific coast. One of them continued to make a weekly contribution to his "original family," carrying it to them in person.

There were twenty-two men for whom "other women" in general, not any particular one, made it impossible for them to be faithful to the ones they had married, and the three others in the group of seventy-eight had been married before and may or may not have returned to their former allegiance.

Among the seventeen women who were accused of intimacy with other men there were four who may not have been guilty. Their husbands were jealous, but the charity worker seems to have been doubtful as to the grounds for their jealousy.

The fifteen cases in which there was laxity on both sides include two men and women who had been living together for some time but had neglected the trifling detail of a marriage ceremony, and four others who had a reputation for licentiousness, but were legally united to each other. In the other nine cases the man had been forced to marry in order to legitimate the child about to be born, but apparently felt that he had then done all that could be expected. Two of these men and girls had been house-servants together and had been persuaded by their employers to marry.

The wife of one of the men who had lost interest in his family felt that he married her to get a caretaker for the children of his

first wife. Three others in this group grew tired of the burden of supporting step-children. One man was said to have "only animal instincts, but no human interest in his family," and the others had either "never had any real affection" for their families or had grown weary of the restraints of home life.

TABLE XX. EXPLANATION OF DESERTION

## I. Apparently chiefly the man's fault.

Laxity of ideals in regard to relations with women.....	78
Laziness or shiftlessness, often increased by habitual dependence on others.....	53
Intemperance .....	31
Intemperance combined with gambling or laziness or some other bad habit....	16
"General worthlessness".....	17
Loss of interest in family.....	13
Unwillingness to share domestic difficulties .....	13
Desire to escape the consequences of crimes or debts.....	12
A roving disposition.....	5
A passion for gambling.....	3
Anger with wife.....	2
Morphine habit.....	1
Homesickness (for Poland).....	1
Total.....	245

## II. Apparently chiefly the woman's fault.

Intemperance, slovenliness, neglect of home and children, often accompanied by a trying disposition.....	21
Intimacy with other men.....	17
Extravagance .....	6
Unreasonable jealousy.....	1
Unwillingness to come to America.....	1
Total.....	46

TABLE XX. CONCLUDED

III. Apparently equal responsibility.	
Incompatibility .....	15
Generally low standards of both.....	12
Intemperance and laziness of the man, bad housekeeping and disagreeable temper of the woman.....	8
Sexual immorality on both sides.....	15
Ill-health and consequent irritability of both .....	1
Youth and inexperience of both.....	1
	—
Total.....	52
IV. Chief responsibility in circumstances beyond the control of both.	
Interference of relatives or friends.....	16
Man probably did not intend to desert when he left home.....	15
Mental disturbance.....	6
Physical inability of man to support family	3
Presence of wife's relatives in family....	3
	—
Total.....	43

Unwillingness to share domestic difficulties was, it goes without saying, a characteristic of most of the men, but there were thirteen cases in which no other trait or circumstance could be made to bear the brunt of responsibility for his defection. The "difficulty" in one of the thirteen cases was the birth of twins; in another, the imbecility of two of the three children; in the other eleven, the wife's ill-health or approaching confinement. "Lazy man, sick wife and large family," was the laconic summary of the situation in one instance.

The irresistible *Wanderlust* whose victims are popularly held to be excusable for much disregard of prosaic duty is seen to be a very small element, as there were only five men who had "always roamed over the country" or "never been satisfied anywhere long at a time."

Many men left home just after a quarrel, but in only two cases was anger considered the explanation of the desertion. One of



these men was enraged because his wife had him arrested; the other because she had given information which led to his discharge.

In the large group of men who were merely too lazy or shiftless to support their families were two who had been living with their wives' parents, five who were accustomed to receiving help from her relatives, five who ever since marriage had depended on her earnings, and several who had confidently looked to charity to provide for their families whether or not they were at home. All of these had been mercifully shielded from the necessity of bearing any responsibility, so that their leaving home is not surprising. The men who leave because their wives are intemperate, slovenly and bad-tempered, have been called "half-excusable" deserters—not wholly excusable, however, since they leave without making any provision for their children. In fact, the man who left his children in the hands of a mother who so mistreated them that they both died of neglect, or even of one who "drank, begged, fought and lied," was far less excusable, as a father, than were the others. One of these women was in prison at the time of desertion and two or three others had records of arrest for drunkenness or disorderly conduct.

Considering the indisposition of many of the men to work regularly, it is easy to understand that extravagance in the wife must have been a potent cause of friction and it is not surprising that it accounts for the desertion of six. One of the extravagant women insisted on helping her relatives and another was over-indulgent to a lazy grown son. Still another was not only extravagant, but a scold as well.

When the German woman who was unwilling to come to America finally did come, after refusing several times, she found that her husband had disappeared.

The convenient explanation of incompatibility was assigned only as a last resort, since it must have existed in some degree in nearly all the families. The incompatibility, in these fifteen cases for which there was no more concrete explanation, was said to be due to a decided difference in age, religious belief, or social position. One of the women was fourteen years older than her husband; another, thirty-four years younger. One of the women was a Salvation Army officer and her husband grew

weary of her active interest in his spiritual welfare. In one case the differences of opinion on religious matters might have been easier to bear had it not been for the wife's poor housekeeping, and it is possible that there was also another woman in the situation who, presumably, agreed with the man on these questions. The differences in social position were expressed by the wives in various ways: one said that her husband was "too high-toned;" another, that he "couldn't stand her relatives;" and one insisted that it was all her own fault, because he was much too good for her. The man's superior advantage in culture and circumstances can, however, hardly be accepted as an excuse for his neglect of voluntarily assumed obligations.

Youth and inexperience at the time of marriage must several times have been a contributing element in bringing about the later dissolution. In the one instance in which it was considered wholly responsible the marriage had taken place between a boy and girl aged seventeen and fifteen respectively.

The subdivisions in the fourth general group indicate that it was difficult to place the responsibility for the desertion anywhere except on the character of the man or the woman, for neither of the first two headings, which account for thirty-one of the forty-three cases, constitutes a legitimate excuse for the man. Here, perhaps, better than in any other part of the analysis, is the difference between the explanation and the underlying cause apparent. If the man's strength of character had been greater his relatives' interference would have had no effect. He would not, for example, have been persuaded to abandon the wife he had married in America and return to Italy to marry a girl his parents had selected for him—a girl who had a substantial dowry and on whom he bestowed all his savings. Nor would the fifteen men who went away from home for what was or may have been a legitimate purpose—to look for work when they were out of employment, or to find something better when they were dissatisfied with their pay or "had too small an income," or to take charge of a branch office in another state, or to fight for their country in the Spanish war—have failed to send for their families or return to them if they had had a stronger sense of duty. One of them was known to have married another woman. One

of the men who enlisted for the Spanish war "went a gentleman and came back a bum," according to his wife; the other one never returned. There is reason to suspect that the unbalanced mind in several cases was the result of intemperance or other forms of dissipation, but in two instances it was attributed to an injury received while at work. The three men who were genuinely incapacitated for supporting their families, two by serious illness and one by the recent loss of his sight, doubtless left in a fit of despondency and may have committed suicide. These are the only clear examples, among the five hundred and seventy-four cases, of the "hundreds and hundreds" of men who are popularly supposed to be driven to the desperate measure of relieving their wives and children of the disadvantage of their presence in order that the public shall see to it that they do not suffer.

Relatives of the women were living with seventy-eight of the families, but generally these outsiders were not objectionable to the husband, and sometimes they were distinctly desirable additions. It must be admitted, however, that when the woman had as many of her relatives living with her as in some of the cases already cited, it is not surprising if her husband felt that his absence would hardly be noticed.

The study of these five hundred and seventy-four records results in the conviction that while here and there the responsibility for desertion may rest with industrial conditions, with ill-considered marriages in early youth or between men and women of irreconcilable differences of temperament, and, somewhat more frequently, with the impossible temper and cooking of the wife, still the most constant element in the situation is the irresponsible, ease-loving man who acts on the theory that when hard times of any sort come he is justified in making arrangements for his own comfort which do not include his wife and children.

#### IMMEDIATE RESULTS OF DESERTION

After the man had deserted eighty-one of the 574 women applied for assistance outside the family almost immediately, without, as far as was known, making any efforts to provide for themselves. These were for the most part in a physical condition which made work impossible or were accustomed to deser-

tion and to getting help whenever it occurred. There were two besides, who got out a warrant for the husband's arrest, and one who had applied for half of her husband's pension, but had done nothing more, before applying for aid. Twelve had tried to find work, but failed to secure any, because they were not strong enough or did not know where to go or had been drinking. In regard to ninety-one families it was not clear from the record whether or not application was made immediately. Eight were under the care of a society when the man left. The other 379 families "got along" by their own exertions, or by help from relatives or friends, for several weeks or months, and some even for a year or more.

Generally, in 236 cases, to be exact, the woman went to work and if there were children of wage-earning age they helped. In nine families there were children who could assume the support without help from their mother. The women took in washing or went out to do day's work, or they did sewing at home, or kept boarders, or, rarely, found work in a shop or factory. They worked as long as their health allowed or until the children got sick or the severe weather came or some other unusual difficulty arose. One woman worked hard, "day and night," the record said, as did her sister also, until the baby was born, three months after the husband's desertion. After the baby's birth she was a complete wreck, suffering from paralysis, epilepsy and heart disease. She was placed in a hospital and the family broken up. Another woman, an Italian, worked in a restaurant, took in lodgers, and did washing at night, until ten days before confinement. At least five of the women broke down completely from overwork and seven developed tuberculosis. One woman displayed so much energy that it is hard to understand why it was ever necessary for her to ask help. She immediately found work for herself, and did it well; she also set her friends to looking for her husband, meanwhile getting out a warrant for his arrest, and applying to the proper authorities for the commitment of her children. Another woman went to work, but also brought about the arrest and trial of her husband on the charge of bigamy. When he was sentenced to three years she felt "square" with him for all he had made her suffer. Such vigorous measures, how-

ever, were exceptional. Patient endurance seems to have been the usual rôle.

In all these 245 families the latent wage-earning power seems to have been the chief resource. In sixty-three help was given by relatives, neighbors, church friends, or employers, and in forty-five relatives or friends supplemented what the woman could earn. One Lithuanian woman had been "taken in" by a fellow-countrywoman, also deserted, and taught to wash and sew until she was able to support herself. The relatives were generally on the wife's side but there were two instances in which the man's mother became the main reliance. Sometimes the help was given in money, amounting in one case to over three hundred dollars; sometimes food or clothing was supplied or the care of one or more of the children was assumed; sometimes the woman's mother and sister came to live with her, or she went home to them, so that it was possible for her to go to work. In one instance this was done with disastrous effect. When the woman and her children went to live with a married daughter the daughter's husband promptly deserted. One of the women who had relatives to fall back on received three dollars a week regularly from her husband, and needed assistance only at the time of confinement.

Sixteen of the families had savings sufficient to carry them on for a time, or they moved to cheaper rooms, sold furniture, pawned clothes, and ran up bills, until they had reached the end of those resources. Four of the women resorted to begging. Three spent all their money in moving to some other town, where they had some reason to think they could get work or find help more readily; one of these went to Buffalo, because she had been there for a while during the Pan-American exposition, and had the idea that work was plentiful. Two of the women found other men to support them. One had secured a divorce and an order for the payment to her of seven dollars a week alimony.

It is the woman, apparently, not the man, who exhausts every possibility before asking aid. The men go away from home as soon as their own comfort is threatened, leaving their wives to work until health is gone, to sell the furniture and "even to

pawn the wedding ring," and finally to suffer the humiliation of dependence on charity.

What happened after the family had exhausted all its resources depended more or less on what was done for it by the society to which it applied.

#### ATTEMPTS AT RECONCILIATION

In only forty-eight cases out of the 574 was an attempt made to bring about a reconciliation. In twenty-nine of these it was definitely stated that no success attended the effort and in four more no success was recorded. Reconciliation was effected in only six instances; in nine, "partial" or "temporary" success was achieved. The reasons for making no efforts in this direction were given in 383 cases, and were as follows:

TABLE XXI. REASONS FOR NOT ATTEMPTING RECONCILIATION

In	29	cases	because	the	breach	was	healed	without	intervention.			
"	207	"	"	"	address	of	the	man	was	unknown.		
"	122	"	"	"	family	was	considered	much	better	off		
					without	the	man.					
"	2	"	"	"	the	man	was	considered	better	off.		
"	14	"	"	"	there	was	"no	opportunity,"	for	vari-		
					ous	reasons.						
"	4	"	"	"	the	man	was	expected	to	return	or	to
					contribute	money.						
"	4	"	"	"	of	slight	acquaintance	with	the	family.		
"	1	case	"	"	it	had	already	been	tried	by	others	without
					success.							

It is evident from this that the principle of keeping the family intact is not made a fetich by charity workers. On the contrary, in a number of instances much credit was given to the friendly visitor for her good work in "helping the woman to resist her husband's overtures when he came back drunk and begged her to take him in." It must be admitted that the man who "had always been a non-supporter," and finally abandoned his wife and three little children was, as his wife insisted, "not worth look-

ing for." His presence in the family only increased expenses and supplied an undesirable element in the environment of the children. The characteristics attributed to the men have prepared the way for expecting a large proportion of such cases, larger than this table reveals. Doubtless there are many more of them, in disguise, among those whose addresses were unknown, for frequently no efforts were made to find the man simply because of his worthless character.

#### EFFORTS TO SECURE REGULAR CONTRIBUTIONS FROM THE DESERTER

However clear it may be that it is not desirable to restore the general outline of family life when it could be nothing but an outline, there is never any reason for neglecting to take whatever measures are feasible to secure a contribution from the deserter toward the support of his family. In sixty-nine instances the man was put under order from the court to contribute a weekly sum ranging from one to ten dollars; three, four or five dollars being the usual amount.

In seventeen of these sixty-nine cases no payments were made, and in twelve others the question about payments was not answered, which indicates almost certainly that none were made. In only forty, therefore, had the court decree any effect, and in still fewer were payments made with any approach to regularity. Fourteen of the men had paid not more than five times and eleven had made "a few" or "irregular" payments. Six had complied with the order "regularly," for periods not apparent from the record, and nine for periods varying from two months to two years and eight months.

In three cases in addition to the sixty-nine in which an order had been secured, a warrant for the man's arrest was obtained, but proceedings had gone no farther.

The reasons given for not securing a court decree show that the charity workers realize that a failure to do this requires more justification than a failure to restore the man in person to his family. Explanations were offered in 302 cases, as follows:

TABLE XXII. REASONS FOR NOT SECURING A COURT DECREE

Reconciliation took place before there was time..	24
Case decided in man's favor.....	3
Man arrested but merely fined for non-support...	1
Difficulties in the law (Washington, D. C.).....	5
"Nothing can be done".....	5
Wife unwilling to make complaint or too ill.....	15
Man was ordered by the Secretary of the Navy to send part of his pay to his family.....	1
Man voluntarily gave money for the children.....	13
Man's relatives were helping.....	2
Man sick, unable to support even himself.....	2
Previous arrests had been of no avail as man would not work.....	7
Woman able to support herself.....	1
Man was out of reach, either because his address was unknown, or because he had left the country, or was in prison, or "out of the state"	223
Total.....	302

The explanation that the man was out of reach can hardly be accepted in all cases as a satisfactory excuse. The efforts made to reach him varied widely. In some instances every clue had been followed. Hospitals were written to on the chance that they would have some information, relatives and employers were questioned, old haunts were visited, the police were interested, and the services of charitable societies in cities where the men might have gone were enlisted. But nearly all of these were cases in which communication was established with the man. When the "address was unknown," it must be admitted, there was rarely any indication on the record that efforts had been made to find it. Five of the 223 men were said to be out of reach, whether or not their whereabouts was known, because they had left the state, without regard to whether desertion was an extraditable offence in the state they had left. Two of the five cases in which it was said that nothing could be done belonged in Iowa, where there is no law applicable to desertion; one man was relieved of responsibility by his wife's refusal to live with him; in the other two cases the reason why nothing could be done was not apparent. The thirteen men who volun-



tarily sent money for the children gave very little, sometimes only an occasional dollar and plainly never enough to keep them from dependence. The disposition to be satisfied with what was being done in these cases seems to have been due to a conviction that legal pressure would not succeed in extracting any more and a fear that it might even result in cutting off the little that was being given.

If the information on the records tells the whole story of what was done in this respect it is clear that there was little disposition to take the trouble of bringing the man to court unless there was some prospect of benefiting the family thereby, and that in general the estimation in which the man was held made it seem hardly worth while to look for him.

#### METHODS OF TREATMENT

In point of treatment there were two particularly interesting records among the 574 which form the basis of this study. The handling of the family by the public, after desertion, and the outcome in the two cases, present striking contrasts, while in the characteristics of the family and the circumstances of desertion both were fairly typical, except for the large number of children.

The first family consisted of an intemperate, shiftless lumberman, a wife who was stubborn, slovenly and inefficient, five children between three and fourteen years of age, and a married daughter. The man had deserted at least twice before, according to the neighbors' account. At the time of this last desertion he had just returned from a logging camp and the wife was near confinement. She was working in a restaurant, and had placed the children, aged fourteen and eleven, in families where they worked for their board. When the husband disappeared "friends raised money and sent her and the three younger children, who were then in a children's home, to her married daughter in a neighboring state. The daughter sold a cow and sent them to a city where they had lived some years before." The woman lived on the money left from the sale of the cow, supplementing it by a little washing, until the time of her confinement, when she applied to the associated charities. The

associated charities placed the two younger children in a home, found the oldest one a place where he could work for his board and go to school, and sent the woman to a hospital. She would not stay in the hospital, but went to a tenement house in a city across the river, and there succeeded in securing attentions from the poor commissioners, the Salvation Army, and the associated charities. They supported her for several months, but in April, 1904, the county authorities sent her once more to her married daughter. She soon returned, however, "much to their disgust." They refused to help her any further, and leaving the three-year-old child in the country, accordingly back she went across the river to the associated charities whose advice she had not been willing to follow before. A place at service was found for her with the baby, and the little girl was provided for in a family. Instead of carrying out this plan, however, she rented a furnished room, took the baby to the day nursery, and worked in a packing house. It was at this stage that the charity worker commented: "I have no doubt but hundreds of dollars have been spent for this woman. I myself was guilty of giving her some furniture, which she sold when she went to the country in April. I gave her no more when she returned and took the furnished room." A later entry, in November, 1904, states that "Mrs. X. has given away all her children except the baby, whom she boards, and she is now earning four dollars a week in a hotel."

The difficulties in this case, aside from the woman's character, arose out of the facility with which she could transfer her allegiance from one set of officials to another whenever the help provided was not to her liking. No consistent policy was carried out and all efforts were dissipated. The other story which has been selected for narration *in extenso* illustrates what can be accomplished when the law and the family can be made to co-operate in a wise plan of action.

It was a Philadelphia family. The man had been an "inveterate loafer from boyhood, had stolen money from his employer and was a gambler and a hard drinker." He was a plumber and could earn from ten to twelve dollars a week, but he "never worked." "Possibly," suggests the agent, "his parents

were too easy on him when he was a boy, just as his wife was later. The rest of his family are all respectable people."

There were seven children and he had deserted before the birth of each one, as well as at other times when there was sickness. Relatives and churches had practically supported the family for eighteen years. The wife had several times taken her husband into court on the charge of non-support, but he was always given "another chance." The woman, herself, was a hard worker and an "unusually good" mother. She could not earn more than four or five dollars a week at best and the only boy of working age not more than three.

When the Society for Organizing Charity undertook to direct the family affairs the man was under orders from the court to pay three dollars a week but he was doing nothing. The relatives and churches were tired of helping. The woman and boy were working as hard as possible, the children were picking up coal from the railroad, and the little girl of eleven was staying out of school to care for the baby. What was done by the society can best be told in the agent's words:

"The woman was persuaded to have her husband brought into court for non-payment of order. This resulted in a ninety days' sentence for contempt of court.

"As soon as she had agreed to legal action and to sending the little girl to school regularly, the society began a pension of two dollars a week, provided clothing through a sewing society, got a friendly visitor, and arranged for the care of the baby. The pension was continued through the three months imprisonment.

"When the ninety days were up the society lodged a detainer against the man and had him brought at once before the criminal court on the charge of desertion and non-support, under the act of 1903. His wife had agreed to this but at the last moment, moved by the pleadings of relatives and priests that he had been sufficiently punished, she gave in and let him off. This was made the more easy by his pleading guilty and thus giving the prosecution no chance.

"A former employer of the man, who was a St. Vincent de Paul officer, took him back, as he was anxious to give him one more chance. He has been working regularly ever since (for eight

months), earning \$10.50 a week and giving all the money to his wife. They have moved into a better house and she has given up most of her work."

This sounds extremely successful, but it is evident that eight months are not long enough to live down the reputation built up through eighteen years, for his wife "does not believe in the permanency of his reform and stands ready to bring him into court again at once if he lapses."

In the first of these two cases the woman made no effort to support herself except when the help offered did not please her, the home was broken up, the man was quite lost sight of, and the support of most of the members of the family devolved upon outsiders. In the second the woman made heroic efforts for years, a deserter of long standing was apparently reclaimed, the home was reestablished, and the family was made self-supporting.

Following quite closely the classification adopted by Miss Smith in the Boston study, the policy of the twenty-six societies in the "treatment" of these 574 deserted families is summarized in the next table. Whatever the general policy followed, "emergent" or "interim" relief was frequently necessary, and is therefore not mentioned in the table.

TABLE XXIII. TREATMENT OF FAMILIES

1. Man persuaded or compelled to resume complete or partial support of family.....	49
2. Family helped to be self-supporting in its own home without the man's help.....	292
3. Family made self-supporting, but home broken up..	17
4. One or more children provided for by charity, leaving the rest of the family self-supporting.....	40
5. Woman helped to secure legal separation or divorce	2
6. Home broken up.....	33
7. Continuous aid in the home provided, as if woman were a widow.....	31
8. Practically nothing done except to give advice....	48
9. Under care only a short time when record was made out, so that policy was not apparent.....	62
Total.....	574

An example of success in restoring to the natural head of the family a sense of his obligations is found in a Pennsylvania case. The man was arrested and given six months in the workhouse; this experience "sobered him up" to the extent that he was "glad to do anything he could get hold of," and on his release he immediately resumed the support of his family, who had been cared for during his imprisonment by the wife's relatives in an adjoining county. A Philadelphia man was traced to Brooklyn, and his wife and baby were sent after him to bring a non-support charge, the other three children being placed in a temporary home, and the household goods stored, until arrangements were completed. The plan resulted in a reconciliation, whereupon children and furniture were sent on to the parents and the home was re-established. Another Philadelphia man, who had gone to Chicago, sent back money for the transportation of his family when he was requested to do so, though it had not seemed to occur to him before. A Boston family was reunited in Nova Scotia, through the efforts of the Associated Charities, after three years' separation. The employers of a Polish deserter were asked to use their influence with the man and had succeeded, when the record closed, in getting him to "think of" sending for his family. A New York man was found in a Connecticut city, six months after he deserted. He was earning good wages in a position that seemed likely to be permanent. Money was therefore loaned his wife to follow him with the two children. Whether because he was tired of his freedom or because he had not the courage to attempt another escape, he accepted the situation and returned the loan that had been made.

Over half the families were helped to become independent of the man's assistance. In this group are included those cases in which material relief, in addition to what was provided by relatives, was required only at times of stress; and also the few cases in which transportation was provided to some other place where it was believed that the family would be independent. One of these latter was an Italian woman who had been in America only a year and a half and could speak almost no English. Her landlord took up a collection among her countrymen to send her and the two babies back to Italy, where she could earn her living,

as she had done before her marriage, by work in the fields. The typical family in this group, however, was such a one as this Boston family. The woman has usually worked and made her own way except for brief periods. Sickness has usually been the cause of need and after one or two grocery orders she would again be self-supporting for a year or two. These families were often under care for years and were given much help in the way of advice about getting work and placing children in the day nursery, as well as financial aid at critical moments. In one instance the society persuaded a church to stop giving help that was not needed.

The seventeen families which were provided for without public help, but at the sacrifice of their homes, were taken charge of, *en bloc*, by relatives or friends; or the children were distributed among relatives, the mother then being able to support herself; or the father was persuaded to pay for the board of one or two children, leaving the woman in a position to provide for the rest; or there was only one child and the mother took a place at service with it. In two or three instances the burden assumed by relatives seems appalling to a outsider. A Spanish woman, for example, who had been deserted by her Italian husband, was welcomed with her three little children by her people in Buenos Ayres.

The families from which one or more children were removed, to be placed in institutions, or boarded out at public expense, afford some pathetic examples of struggles to keep the home together. One woman had for a year supported her three children by washing and day's work, until her health began to break down. Then her church and a relief society helped her for several months, but it was clear that keeping the family together would require almost complete support for a number of years, and so she was persuaded to place the two boys in a small home, where their board is paid by the county, and a good position as housekeeper was found for her with the youngest child. She is able to buy the boys' clothes and take care of them, and has lost none of her ambition to be "as much like other people as possible." The total number of children provided for in this group of forty families was eighty-five.

It is rather surprising that efforts were not made in more than two cases to secure legal separation or divorce. Doubtless separation was advised in many more, but not pressed on account of the woman's reluctance or because there was little probability that the man would return to trouble her. One or two of the women had already secured divorces of their own volition. The one who was aided to get one by the society had been so flagrantly mistreated that even her priest actively favored this procedure.

The breaking up of the family was necessitated in eighteen cases by the mother's ill-health. One woman who was tuberculous was sent with her child to her mother, and medical care and special nourishment were provided for her there. The other women were placed in a hospital and twenty-seven of their children were committed, the others being taken charge of by relatives or friends. Seven women who had no children were either sent to a hospital or placed in an almshouse. Nine women were considered unfit to remain the guardians of their children. One of them was arrested and her child taken by relatives. The other cases were turned over to the Society for the Prevention of Cruelty to Children, which had either succeeded in removing the children from their mother or was trying to do so when the record closed. Twenty children were affected in these nine cases.

When continuous aid in the home was provided the man had generally been away a long time and it was clearly an advantage to all concerned that the family should be kept together. In a few cases, it was admitted that the policy had been a mistake. For one family "too much to reckon" had been spent during the course of six years, while the husband "came and went at pleasure." It is impossible, from the record, to understand why the expenditure was kept up through the third and fourth and fifth and sixth years, when the results were so unsatisfactory. In regard to another family the agent said, "Everything has been done for them, wisely and unwisely." These, however, are exceptions. The following is a more typical case. The man had been in the habit of deserting "regularly every winter and frequently at other times," staying away "from two weeks to four months, according to the length of his spree,

and the kindness of his friends." In 1901 he left again and has not since returned. After he had been away a year it was found that his wife had ruined her health by overwork and that the oldest girl, then only fifteen, was supporting the family of five by factory work and breaking down under the burden. Accordingly, a regular monthly pension was organized, nourishing food was given, employment in the country was found for the girl, and the boy was placed in an industrial training school.

The forty-eight cases for which practically nothing was done include four families who wished nothing except help in tracing the man, which was given, but with no success; eleven who preferred to get along without help rather than to accept the plan proposed; two who were lost sight of before anything could be done; twenty-three in which nothing but advice was wanted or the investigation revealed resources which made aid unnecessary; and eight in which no explanation was offered for having done nothing. One of the women who refused advice had five children, the oldest of whom was twelve. She was quick-tempered, extravagant and "had no control over the children, though she scolded a great deal in a loud, harsh voice." The man's relatives were willing to provide for all the children in their own families but refused to help in keeping them with their mother. She, however, "worked hard and begged persistently," getting a picture of the family and a pathetic story about them into one of the newspapers, and by these methods succeeded in keeping the children with her. From the information given it seems that her motive in keeping them was the economic advantage they gave her in her begging.

#### LATER HISTORY OF THE MEN

Finally, what becomes of the men who desert?

Two hundred of them were known to have had some communication with their families after leaving home. Of these thirty-five had returned home, or been reunited with their families in some other place, before the record was closed. Others, a few, sent money more or less regularly; others wrote once or twice, sometimes anonymously. Sometimes the children said that their father came to see them when their mother was away.



One man returned just long enough to enjoy the luxury of a fight. Another had the pleasing habit of breaking into the house periodically at night and "threatening" his wife. One had made the journey from Memphis to an Indiana town to "pay his wife a visit," and one who is living in the same city, with another woman, personally delivers some money to his wife once a week.

Where the man was when the record closed, or when he was last heard from, is shown in the following table:

TABLE XXIV. WHEREABOUTS OF THE 574 MEN

Not known.....	310
Reunited with his family.....	35
In the same city.....	69
Within a few hours' journey of home....	78
In some more distant place in the U. S...	40
In a foreign country.....	22
At sea or traveling over the country.....	4
In prison, workhouse or reformatory...	12
Probably dead.....	4

The thirty-five who were back home had returned after absences varying from a few weeks to five years. Some of them were being supported by wives who had "the weak attitude of always forgiving everything," but others were working and caring for their families, at least temporarily. A Negro had returned, dying of consumption, and been received, after living with another woman for some months. Another man was living by turns with the other woman and his wife, but "supporting the original family." One of the men had graciously joined his wife at her father's home.

Sixty-nine, in addition to these thirty-five, were known or supposed to be in their own towns. They were "loafing around," or they were working, sometimes in their old position, boarding, or living with relatives. One man was living in the same block with his wife. One at least was known to be living with another woman in the same city; another was in a disreputable house. One was with his mother, dying of tuberculosis.

Of the seventy-eight who were not far away, forty-one had left their home states, some of them by the simple process of

taking a ferryboat or a trolley car. In all, only eighty of those who were still in the United States and in possession of their freedom were known to have gone out of the state. The employment of some of them is most picturesquely stated. One of them, who belonged in Jersey City, was said to be "dredging on the Hackensack Meadows." A resident of Washington was believed to be "down the river, fishing," and another was supposed by his wife to be "digging holes somewhere for telegraph poles." One of these men had taken refuge with his wife's relatives, who considered him ill-used.

The Louisiana Purchase Exposition seems to have a bearing on the desertion problem. Eight of the forty men who got some distance from home were known to be in Saint Louis last summer, either "having a good time" or working at some occupation which, presumably, was more grateful than the monotonous routine left behind. A Syrian, for example, was "tending camels on the Pike." One man from the Atlantic coast took another woman to the exposition for a kind of wedding trip.

The others in this group were scattered all over the country, in Virginia, New Orleans, St. Paul, Chicago, Texas, "the West," vaguely, "the Pacific coast," California, where one of them was dying in a hospital, or Indian Territory.

The twenty-two who had left the country were distributed as follows: Canada, five; the Klondyke region, Mexico, South America, and South Africa, each one; Europe, thirteen. The man in South America was vividly pictured as a sort of troubadour, "playing the trombone; he never would do anything else." The one in South Africa had been sent by his wife, with money she had earned, to Ireland to recuperate after an illness. After several months, he wrote asking for money for his return passage. She sent it as soon as possible, which was not immediately, but he did not come home. She then went over to Ireland to find him, as soon as she could save the money, only to learn that he had already left the country.

The attraction of the large city is shown in the eleven men who had gone to New York from small cities not far away, and the three who went to Boston from smaller Massachusetts towns. One of the men attracted to New York was supposed

to be working on the subway; one was a Pullman porter. Very few, out of the whole number, were not in cities. One was on a ranch in Arizona, another on his father's farm; the Potomac fisherman has already been mentioned; one man was employed on a boat running from Panama to New York and one was on the high seas; one was in the Pennsylvania mines, and one was "traveling all over the country," and a man from Portland was supposed to be prospecting in the Klondyke, but the others, as far as was known, were in cities and generally large cities. How far, in these cities, they were filling vacancies in the economic system; how far they were displacing laborers who perhaps had not deserted their families; and how far they were merely increasing the volume of dependence, it is not possible to guess. Occasionally a homeless man asking for help in New York admits that he has a wife and children in some other place. If the truth could be known about the floating population in any city, it would be found that many of the apparently unattached men who fill the free lodgings and make up the "bread lines" are really deserting husbands, who create a double problem by leaving their families dependent at home and casting themselves on charity in some other place.

#### CONSEQUENCES

The consequences of desertion, as of any other disregard of social obligations, reach far down the future. Obviously the 574 families now under view lost their independence on account of the failure of the husband and father to provide for them. Sometimes help from outside was required for only a short time, sometimes it was limited to advice, but in some form and in some degree it was required. The sums reported to have been spent in material relief for 259 of these families amounted to nearly nine thousand dollars, and this is a mere fraction of the total. One family was helped for seven years, at an expense of over a thousand dollars, until the death of the woman. At this crisis the man returned to his home and children, bringing with him the woman he had been living with since his desertion. In a number of instances no estimate was given but it was stated that the amount was "very large" or "too much to

reckon." In many cases it was apparent that considerable expense had been incurred by individuals or associations, but no record of the amount was in the hands of the society which had organized the relief and from which the history of the family was obtained.

Ninety of the families were broken up temporarily or permanently. One hundred and thirty-two children were introduced to institution life or were boarded out. Other children were deprived of a fair start in life. In one family the twins who were born a short time after their father's desertion died before they were three months old. A woman who had borne seven children believed that the death of the six she had lost had been due, directly or indirectly, to her husband's neglect.

When the family was kept together without much financial assistance from outside it always meant, except when the man returned within a short time, that too heavy burdens were placed upon the older children or on the mother, who was in very few instances qualified for any better-paid occupation than day's work or the plainest sewing; or it meant demands on relatives who were themselves ill-prepared to meet additional expense.

The influence on the children of the abnormal elements introduced into their lives and the influence on the community of the free circulation in it of men who had found it a simple matter to evade their responsibilities are consequences which it is impossible to estimate.

#### SUMMARY

Desertion is not an evil which can be eradicated by legislation alone. A good law acts as a deterrent to a certain extent. The man who, after a first desertion, finds that he has only succeeded in increasing his restraints, is less apt to make a second attempt to escape into freedom than the one who is allowed to come and go at will with assurance that his family is cared for by charity while he is away. If he has the courage to desert a second time he will at least show public opinion the deference of laying his plans more carefully. It is doubtful whether the fate of deserter A would often avail to deter B, C, D and X from trying their fortune in a second

search for liberty. The chief value of a good law, well enforced, is that it expresses the estimation in which society holds men who shirk their obligations to their families, and that it relieves society of the necessity of assuming their responsibilities.

Something can be done in the way of reclaiming individual deserters who may come under the influence of charitable societies, by that patient appealing to their better nature which is the specialty of friendly visitors. Whatever can be done by legislation and by wise treatment in other ways must be done, but the chief hope for the future lies in plans for eliminating the type of man which deserts and the type of woman which provokes desertion.

The typical deserter is not a figure to excite admiration, nor even much interest. He is young, able-bodied, more or less dissipated, capable of earning good wages, but rarely in a mood for making the exertion, and, above all, he is lacking in the quality which makes an obligation to others outweigh considerations of personal comfort or preference. This combination of characteristics makes him susceptible to attractions of various sorts; it incapacitates him for dealing in a philosophic spirit with the elements of discord which exist in every household; and it prevents him from resisting with even an average will the restlessness that is apt to call every one at times away from the ordinary prose of life. He may be, withal, though he is not always, of a personal attractiveness that makes him a coveted comrade and gives him an advantage with women.

The typical deserted family consists of a wife and two or three small children. The wife is a woman with no special preparation for any phase of life, but as far as her knowledge and resources allow she does her part toward making the home what it should be. Frequently she is compelled to be the main support of the family. Both health and disposition show the effects of the hardships of her married life. By the time her husband deserts, five or six years after marriage, the discipline she has had from his irregularity in providing necessities and from his drunkenness and other bad habits, has left its mark in failing strength and in a quick or sullen temper or a habit

of "nagging" or complaining which undeniably detracts from her charm as a constant companion.

There is no basis for a composite photograph of the children in these families. Occasional mention is found of epilepsy, feeble-mindedness, or physical defect. It seems almost impossible that children with such men as these for fathers, and with such an environment as these homes supply, should have a normal degree of either physical or moral health.

Examples can be found of other styles of deserters and deserted families—types that lend themselves more readily to the employ of rhetoric and arouse more ardent interest—but they do not, so far as this study reveals, form any considerable portion of the problem of desertion with which charitable organizations have to deal. There are deserted wives of such a character that they can receive no sympathy when they are abandoned. There are also unfortunate victims of circumstance, devoted to their families, but unable to find work, who go away with the honest motive of making things easier for wife and children. It is the part of the charitable public to correct the mistaken hypothesis on which such men act. It is mistaken, for it will surely be increasingly true that any man who is anxious and willing to support his family will find sympathy instead of severity, and help in getting into a self-respecting relation with the industrial system. The rational policy would be to give whatever assistance is needed to the man who has the courage and the manliness to face the difficult situation, but to hesitate long before smoothing the way of the man who runs away from it by providing liberally for his family.

The deserting husband must not be permitted to succeed in evading his responsibilities and opportunities must not be neglected for reclaiming the individual deserter of whatever type and improving the standard of the deserted home. The main hope, however, for the solution of the problem, lies in the providing of decent living conditions, and fair opportunities for work, and in the education of this generation of children, and the next, and the next, and the next, in whatever makes for stability of character, for economic efficiency, for a realization of responsibility, and for a wholesome family life.

# FAMILY DESERTION AND NON-SUPPORT LAWS

A STUDY OF THE LAWS OF THE VARIOUS STATES

MADE IN CONNECTION WITH

THE ASSOCIATED CHARITIES

WASHINGTON, D. C.

BY

WILLIAM H. BALDWIN

OF THE BOARD OF MANAGERS

WASHINGTON, D. C.

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The patient attention given by many state officials to inquiries sent them is gratefully acknowledged, as well as the cordial assistance rendered by many of those who have been and are now called on to struggle with the problem of neglect and desertion.

If the information about the laws here assembled reveals any advantages hitherto overlooked in this struggle, or aids in the effort to make the poorer laws as good as the best, the time devoted to arranging it will not have been spent in vain.

*Washington, D. C.,*

*December 23, 1904*

## FAMILY DESERTION AND NON-SUPPORT LAWS

THIS compilation of the laws of the different states relating to family desertion and non-support of family has grown out of some problems presented at the first meeting of the General Conference of the Associated Charities of Washington, D. C., in April, 1904. It was there stated that in the case of several families, in which suit had been brought to compel the husband to support the family, it had been practically found impossible to enforce the order of the court; that the officers were reluctant to serve the warrant for arrest and that where this was done the husband was likely to defeat the whole proceeding by going to Virginia or Maryland, where he could not be reached. The question was whether to furnish support for these families rather than let them suffer.

One case was that of a man who worked fairly well but at the end of the week could not resist the temptation to spend his pay for drink instead of giving to his wife what the court ordered. Experience had taught him that he could do this and when he sobered up find his family had been kept by others from suffering.

It was suggested that if the money could be ordered to be paid directly to the wife this difficulty would be removed, and a committee was appointed to find out what the laws were and what could be done in such cases.

The Corporation Counsel, when consulted, stated the law as found in the section of the District Code as to maintenance of wife, and explained that a man who failed to obey the order of the court could be imprisoned three months for contempt. When it was suggested that in such cases as these this would hurt the family by shutting off all earnings, and that an arrangement to

have the employer pay the money to the wife would help them, the question was asked whether anything of the kind had been done elsewhere.

#### SUBJECT IMPORTANT

An inquiry of the Charity Organization Society of New York, where it was said the subject was being investigated, did not bring exact information as to the laws of the other states, but revealed the fact that similar difficulties in that state had led to the appointment of a committee which was endeavoring to have the offense made a felony; that like efforts were being made in some other states, and that there was a general interest in the question, particularly as to the necessity of preventing recreant husbands from escaping both work and punishment by leaving the state.

The importance the subject thus assumed appeared to justify the collection of the exact facts as to the laws in other states, in order that the best features in them could be considered in framing any new law where changes had been found necessary.

#### SCOPE OF THE INVESTIGATION

The results of this investigation are here presented. The intention has been to give the text of the important parts of all the statutes now in force relating to either neglect to support or desertion of either wife or children so far as neglect or desertion is made punishable, either directly as a criminal or quasi-criminal offense, or by a proceeding involving an order to support and imprisonment for non-compliance in case of disobedience. Reference is also made to any provision for a civil suit by the wife for maintenance, and the possibility of a divorce so far as desertion or neglect is ground for it is also stated.

Aside from this certain facts as to testimony and jurisdiction were looked up and a form of inquiry covering twelve main features of the laws and intended to reduce them to a uniform basis for the purpose of an intelligent comparison was filled out from the best information obtainable in the law libraries in New York and sent to some competent authority in each state for approval or correction. Repeated inquiries sent to different officials in

three states have received no attention, but in each of the others the statement has been returned approved; so that if any inaccuracies or any misconceptions of the scope of any of the laws are found, it can be said that at least reasonable effort has been made to avoid them.

#### EXTENT OF FAMILY DESERTION

This is not intended to be a study of family desertion or of its causes, but it is proper to glance at some features of it in order to show more clearly its extent and the character of the men with whom the laws have to deal. The subject has been well covered by two publications, one issued by the Associated Charities of Boston in November, 1901, and the other by the Philadelphia Society for Organizing Charity in January, 1903, which give the results of observation and experience in these two large cities, and also pay some attention to the laws, but of which the writer was not aware until this investigation was well along. The latter contains the conclusions and some typical examples from 211 cases and the former analyzes carefully all obtainable details in the 234 cases handled by the Association in the previous year.

An exhaustive inquiry is now being made by the Charity Organization Society of New York into a large number of cases, and the Associated Charities of Washington has begun on a similar one with the cases here. The records at Washington do not give the causes of distress in applications for relief prior to 1896, but in the nine years since then the record is as follows:

	<i>Families Aided.</i>	<i>No. in These.</i>	<i>Deserted Wives.</i>
1896.....	2,164	7,487	56
1897.....	1,919	6,540	108
1898.....	2,115	7,857	160
1899.....	2,473	9,155	182
1900.....	1,848	6,783	170
1901 20 ...	} 4,577	15,661	427
1902 months...			
1903.....	3,555	10,164	234
1904.....	3,898	11,405	266
Total.....	22,549	75,052	1,603

This shows that more than 7 per cent. of all the cases treated have been deserted wives. In Boston the average of all records kept, beginning with 1889, is practically 10 per cent. In Orange, N. J., the average for the last three years is just 11 per cent., while in Seattle, Wash., cases of deserted wives made up more than 13 per cent. of all relieved during seven months of the last fiscal year. Any conduct which accounts for one-tenth of all the cases which charitable societies are called on to assist demands careful attention from these agencies as well as from those who may be asked by them to lessen the burden by passing laws which will oblige the deserter to assume his share and deter others from deserting by closing the way of escape.

#### WHY DESERTION IS INCREASING

The causes are complicated. The greater amount of travel due to constantly increasing means of communication; the ease with which a man, accustomed to one of the simple processes of modern machinery, can adapt himself to many others without any long training, so making employment more readily obtainable; the fuller knowledge of other communities afforded by the multiplied newspapers, and perhaps the numerous items about other deserters which awaken a dormant impulse, just as cheap novels prompt some boys to start out as Indian fighters, all contribute to the state of mind which makes desertion possible. If a man who has indulged such thoughts can, without much time or expense, in some cases even by investing a nickel or less, by taking a trolley or a ferry, put himself into a neighboring state, beyond the power of the court to compel him to support his family, where he can spend all he earns for his own gratification, he is in danger of finding some excuse for going.

How far the belittling of marriage ties by some of our would-be social reformers; how far such fantastic notions as that recently propounded by George Meredith; how far some instances among the "four hundred"; how far ill-considered marriages among young people, who do not realize the responsibilities they are assuming, especially those thrown together in a chance way in crowded cities, contribute to desertions are questions which only careful study can determine.

It is clear, however, from the studies above referred to and from the testimony of those most familiar with instances of desertion, that the cause is not, as might be supposed, discouragement over inability to fulfil a husband's part in caring for the family, but the lack of determination to do so; that the trouble is not physical but moral weakness.

#### DUE TO MORAL, NOT PHYSICAL, DEFECT

Of the 234 cases analyzed in Boston 50 per cent. were skilled workmen and 10 per cent. clerks or in special occupations, leaving but 40 per cent. unskilled laborers. The earnings of 50 per cent. were from \$4.00 to \$11.00 per week, the rest earned \$12.00 or more, and 60 per cent. were employed when they deserted; so that there was, as a rule, no inability to furnish support. Nor were the families large. In nearly one-fifth of the 234 cases there were no children under 14 years of age, and in all the others the children averaged less than three to the family.

Excluding the wife's responsibility from those cases of the 234 in which the causes are known, one-half were due to intemperance, one-quarter to licentiousness or other moral defect, and one-sixth to disregard of family ties or a roving disposition, leaving only 7 1-2 per cent. due to causes really non-moral. This accords with facts gathered elsewhere, all of which go to show that the usual deserter is not a man who is physically weak or ill and discouraged, nor desperate because of bad housekeeping or his wife's ill-temper; he is a young, able-bodied man, who leaves because he is well able to take care of himself and desires to indulge a selfish or vicious impulse, or to avoid ordinary cares or some unusual trouble. Desertion, therefore, indicates a serious moral defect.

#### SHOULD BE TREATED AS A CRIMINAL OFFENSE

This fact has an important bearing on the purpose of any law concerning it, for it shows that the law has to deal rather with offenders than with unfortunates, and that where the act deprives the family of the support which the absentee could furnish, and to which they are entitled, and leaves them dependent on others it

should be punished and the desire to commit it restrained, as in any other public offense. There are exceptions, but there is far less danger of oppression and injustice to the man from punishment than to the wife and children from refusing to interfere in cases of his desertion.

#### SOCIETY HAS AN ECONOMIC INTEREST

Where the family has means of support the absence of the husband is not a matter for public concern, and any action taken should be at the instance of the wife. It is where the family applies, or has reason to apply, to others for assistance, or where it must undergo privation and suffering if not assisted, that the loss of the earning power of its natural head ceases to be a family matter only and becomes a subject of interest to the public. The community has a right to demand the restoration and proper application of this portion of its resources, which others must make good if it is not restored; and should be able to inaugurate proceedings to this end, even though the wife, through fear or for any other reason, is unwilling to or does not begin the action herself.

#### NON-SUPPORT WITHOUT DESERTION

Since the interest of the public attaches by reason of the non-support rather than the absence in case of family desertion, it follows that a husband who, when able, neglects or refuses to support his family which depends upon him, commits an offense against the public, even though he does not desert, no matter whether this ability arises from the possession of sufficient property or only of the capacity to earn from day to day enough for the purpose; and the law should provide for the punishment of this offense in like manner. While such cases apparently show less disregard of natural obligations than those in which the man actually abandons his family in destitute circumstances, they are sometimes even more aggravated by reason of the more constant reminder of the husband's neglect of duty, or perhaps by the share an idle or vicious husband is sometimes able to get of the support obtained by the slender earnings of wife or children, or by the kindness of friends, or even of charitable agencies.



In this class are many men who drink or gamble, but it is on economic rather than on moral grounds, that non-support laws attack such habits through their effects. Even without desertion intemperance is an economic curse, and no matter what may be done by the wealthy in their clubs, the law should compel a man to support his wife and children before he spends money in saloons, even for pure liquor. A further economic reason for such laws is that aside from the fact that the moral effect of non-support by a father who is able to furnish it is mortifying to the children and gives them a bad start, children who are properly nourished and have their normal growth become better citizens than those whose powers are stunted by neglect.

#### THE NATIONAL CONFERENCE RESOLUTION

Subsequent to the investigations made in Boston and Philadelphia, a conference on the subject was held at New York on the call of the Charity Organization Society of that city, in April, 1903, and later in the year the National Conference of Charities and Correction passed a resolution calling the attention of the governors of the different states to the gravity of family desertion and asking them to co-operate in checking the growing evil by requesting and granting extradition in such cases. This resolution received the hearty approval of some of the Governors and was objected to by but one.

#### FAMILY DESERTION RATHER THAN WIFE DESERTION

It has been the endeavor to include in these laws all those by which a husband or father could be reached for desertion or non-support, whether that was the primary object of the law or not, and this has led to the mention of some which were only indirectly aimed at this offense, where there were no others, such as the vagrancy laws in Arkansas, Indian Territory and Mississippi, and laws against cruelty to children in Washington, as well as in some cases where the cruelty laws definitely cover simple abandonment or neglect as well as abuse. The subject, therefore, should be entitled family desertion rather than wife desertion, because in many of the laws the wife is entirely omitted; but as a matter of

fact in one state at least the support which the husband is obliged to furnish to escape punishment when arrested on account of his children, is made to include the wife.

There is a statute similar in form in twenty-five states relating to desertion of a child with intent to wholly abandon it, the penalty for which in many cases runs up to seven years in the state prison, and in almost all cases makes it a felony; but no notice has been taken of these laws because they seem to imply exposure or some intention to destroy the child or allow it to perish. Nor has any effort been made to follow up the poor laws which state the obligations of persons to support others in various degrees of relationship when the latter are poor and unable to support themselves; for when these laws refer to children they regard them as paupers, or as persons prevented from supporting themselves by some mental or physical disability, rather than as children who could not under any circumstances be expected to support themselves. The common law obliged parents to support their minor children, and so far as a statute says no more than that it need not be restated.

#### CHILDREN NOT NECESSARILY PAUPERS

We cannot, however, consider young children whose parents are alive as unrelated or class them as paupers because they are not yet able to provide for themselves. The father's earning power is a child's asset, and a child whose father is able by diligent work to provide it with nurture and education is not poor. The state should see that this asset is not dissipated or misappropriated, just as it guards the property of orphans, and should punish any interference with the child's natural rights.

The common law, though, did not make it a criminal offence for a man to abandon his wife or children or to simply neglect to support them. The remedy was a civil suit, and if he failed to obey the order of the court to support them he could be imprisoned for contempt for non-compliance; and that is the course prescribed by some of our statutes in the United States now.

So far as the act is a criminal offence it is purely statutory, and it is interesting to trace the development of some of these statutes.

## CIVIL ACTION

While note has been made in all cases where there is provision for a civil suit by the wife for maintenance, in order that the exhibit may be complete, it has not seemed worth while, except in two or three instances, to give these laws in detail, because in most of the families who apply to charitable associations for aid the husband's assets consist of potential earnings rather than of lands, credits or dividends, and he has no property which can be reached by civil suit. Even in the few cases where he has some, the expense and delay of prosecuting the suit in the higher courts make the remedy practically unavailable.

## A CRIMINAL OFFENSE IN FORTY-FOUR STATES

In forty-four of the fifty states and territories, all of which we shall, for the sake of convenience, speak of as states, there are laws making non-support in some form a criminal offense, besides Minnesota where the proceeding resembles that for such an offense. The other states which do not make it an offense are Iowa, Nevada, Oregon, Tennessee and Texas. In three of these, Nevada, Tennessee and Texas, which have no provision for a civil suit, as well as in Arizona, Idaho, Kentucky, Montana, South Dakota, Washington and Wyoming, in which it is a crime as to children, the wife's only remedy is a suit for divorce. In South Carolina she has not even this, as there are no divorce laws in that state, but she may bring a civil suit for support as well as for divorce in eight states—California, District of Columbia, Georgia, Iowa, Ohio, Oklahoma, Oregon and Utah, in six of which it is also a criminal offense as to children.

In four states the offense is a felony, applying to wife or children in Michigan, Nebraska and Wisconsin, and to children only in Ohio. In all the other forty it is a misdemeanor in some form, by terms, by definition or by penalty, applying to wife or children in twenty-seven, and to children only in thirteen.

The form of the statute making it a misdemeanor for any parent or guardian to wilfully omit, without lawful excuse, to perform any duty imposed upon him by law to furnish his child with necessary food, clothing or shelter, is almost identical in Arizona, California, Idaho, Montana, New York, North Dakota, Oklahoma,

South Dakota and Utah as well as in Porto Rico. This law must refer to the common law, as in some of these states there is no statute declaring it to be a duty to furnish such support. In Washington the only law is a part of that in the cruelty to children statute, and resort may be had to the cruelty laws in part in Colorado, Georgia, Indiana, Kansas, Nebraska, New Hampshire, Ohio and Pennsylvania, though three of these states have other more effective laws.

#### QUASI-CRIMINAL PROCEDURE

In New Jersey, Michigan in one law, New Mexico and New York, persons who fail to support their families are "disorderly persons." In New Mexico this law is part of the criminal code and the offense is a misdemeanor, but in New Jersey and New York such persons are not considered criminals. They are to be arrested and on proof that they do not support their families are to be adjudged disorderly and forced to give bond for support or go to jail. The procedure in Delaware, that still used in Pennsylvania, and that to which Minnesota has just relapsed, is like that for disorderly persons, except that they are not called so nor charged with any criminal offense. It is a civil process beginning with arrest and binding over and resulting in an order of court to give bond for support. It is for disobedience of the court that the defendant may be imprisoned—not for his failure to support.

#### BONDS FOR SUPPORT

The provision for giving bond has been very effective in securing support. It seems to have been first tried in the quasi-criminal proceeding above spoken of in Pennsylvania in 1867. New Jersey came next in the disorderly persons laws of 1875, but Ohio was the first to make it the alternative of a sentence to the workhouse for misdemeanor in 1886. The beneficial effect of this was immediate and still continues, and the experience there and elsewhere has influenced subsequent legislation, especially the most recent. In nine of the twelve states which have passed laws on this subject since 1901 there is provision for a bond, so that now a bond may or must be given in seventeen states.

## A FELONY IN FOUR STATES

Desertion or neglect of family became a felony first by the penalty fixed in Wisconsin in 1887 and has so remained since. It was made a felony as to children in Michigan in 1897 and in Ohio in 1900. Desertion and neglect of wife or children was also made a felony by Michigan and by Nebraska in 1903, and bills raising the offense to felony which failed last winter in Indiana, Kentucky and New York are to be introduced again at the next session, as well as new bills in several other states where those who are compelled to face the problem of neglect and desertion feel the need of sterner measures. While this may seem severe it may be remarked that two men, who have each had a long experience in a large city, think the most satisfactory way would be to revive the whipping-post, and compel the man who will not support his children to choose between doing so and receiving an adequate number of lashes on his bare back.

## RECENT LEGISLATION

To show the tendency of legislation the following list of laws, passed in 1901 and since, may be interesting:

- 1901 Feb. 20. West Virginia.—Making neglect of wife or children a misdemeanor and providing for bond.
- 1901 April 13. Minnesota.—Making neglect of wife or children a felony and providing for bond.
- This law was repealed and a new law passed April 14, 1903, which does not make it a criminal offense to neglect wife or children, but provides for giving bond to support them, and imprisonment in case of disobedience to the court's orders for support.
- 1902 June 19. Louisiana.—Making desertion or neglect of wife or children a misdemeanor, with provision for bond and for the payment of any fine or forfeiture collected in whole or in part to the wife or guardian.
- 1902 Nov. 11. Vermont.—Amending previous act by adding to the small fine imprisonment for six months, making the wife a competent witness and doing away with the requirement of notice by the overseers of the poor.
- 1903 Feb. 22. Alabama.—Amplifying the vagrancy laws.

- 1903 Mar. 13. Pennsylvania.—Making desertion and neglect of wife or children in destitute circumstances a misdemeanor with provision for bond. The old law for a civil suit with arrest and bond or imprisonment is still in force.
- 1903 April 3. Nebraska.—Making neglect and desertion of wife or children punishable by imprisonment in the penitentiary, and hence a felony, and providing for bond.
- 1903 April 8. New Jersey.—Making desertion or neglect of wife or children a misdemeanor in case the party leaves the state, and constituting the wife a competent witness.  
This was amended March 30, 1904, to apply to desertion and neglect, and the clause as to leaving the state was omitted.
- 1903 April 16. Michigan.—Making desertion and neglect of wife or children in destitute circumstances felony, with provision for bond.  
The law of March 31, 1893, amended in 1897, making desertion or neglect of children a felony is still in force, as well as the law of July 5, 1889, punishing as disorderly persons those who neglect to support their families.
- 1903 May 13. Illinois.—Making desertion and neglect of wife or children in destitute circumstances a misdemeanor, with provision for bond and for the payment of any fine or forfeiture, in whole or in part, to the wife or guardian.
- 1904 Feb. 29. Mississippi.—Amplifying the vagrancy laws.
- 1904 March 9. Maryland.—Making desertion or neglect of wife or children a misdemeanor, with provision for bond and for the payment of any fine or forfeiture, in whole or in part, to the wife or guardian.
- 1904 March 12. Virginia.—Making desertion or neglect of wife or children a misdemeanor, with provision for bond.

With the exception of Minnesota these show a decided advance and indicate not only a growing appreciation of the gravity of the situation but also better methods of dealing with it. While adhering to the form of the old law Alabama has stated the offense more specifically, increased the fine and made the wife a competent witness, but has not provided for a bond. This provision is also lacking in the Vermont law, but the addition of six months' imprisonment, with the admission of the wife's testimony, makes it much more effective. The new law in Mississippi is rather complicated, but the extension of sentence possible for second offense from twenty days to six months is a great advantage.

## LOUISIANA LAW

Noticeable among these is the Louisiana law which relates to neglect or desertion of either wife or children, making the offense a misdemeanor, subject to a moderate fine but a long imprisonment, and providing for giving bond for support and obtaining suspension of sentence or release from prison so long as the obligation of the bond is complied with. If this is disregarded the man may be at once remanded to prison. This leaves him free to use whatever ability he has in taking care of his family, but holds over him the instant application of the penalty if he fails to use his freedom for this purpose, without affording him any of the chances of escape which the necessity of instituting another action and conducting another trial might offer.

As a rule the collection of a fine is difficult, but this law provides that if anything is collected on it, or if the payment of the bond is enforced in case the man fails to work and eludes capture, whatever is received may be paid in whole or in part to the wife. Without such an arrangement the enforcement of a fine may punish the man at the expense of the family on whose account he is being punished; and he is more likely to secure a good bondsman if his friend can feel that, even at the worst, whatever he pays is likely to keep the wife and children from want. The law, therefore, seems well adapted to the end in view. The only important thing not provided for is the competency of the wife to be a witness.

This law was closely followed last year by Illinois, and this year by Maryland, in both of which the wife is a competent witness; but in one important respect the Illinois statute differs from the other two, for it applies only in case of desertion and non-support, instead of covering desertion or non-support, and so leaves the state without any way of reaching men who do not desert but who, by reason of intemperance or indolence, let the family suffer want. The title of the act seems to cover either, but the law itself is differently worded.

The effect of the release on probation for which the laws of these three states provide, which is in accordance with the present ideas of the purpose of punishment, is distinctly encouraging and helpful. The first instance of such a provision for reimprison-

ment in case of failure to comply with the terms of release, seems to have been in the case of Ohio, where it has worked admirably, though probation is not specifically spoken of. Reimprisonment in case of non-compliance is implied, though not definitely expressed, in the Pennsylvania law of 1903 and is one of the provisions of the laws of Michigan, Nebraska and Virginia above mentioned; and in New York the amendment of 1903 expressly provides for release without surety on probation under certain circumstances.

#### THE LAW IN MINNESOTA

The experience of Minnesota is interesting. Since before 1894 the state had had a fairly good law providing that desertion or neglect of wife or children should be punished as a misdemeanor, that is, by imprisonment in the county jail for not more than three months or by a fine of not more than \$100.

This, however, was not sufficiently effective, and on April 13, 1901, the legislature passed an act to prevent the abandonment of wife or children, worded as follows:

"Any person who wilfully omits, without lawful excuse, to furnish proper food, clothing, shelter or suitable care in case of sickness, to his wife or minor children under 15 years of age, shall upon conviction be deemed guilty of a felony and punished by imprisonment in the penitentiary for not more than three years, nor less than one year, in a county jail, or in a workhouse, at hard labor for not more than a year, nor less than three months.

"Provided, however, if after conviction and before sentence he shall appear before the court in which said conviction shall have taken place, and enter into bond, to the State of Minnesota, in such penal sum as the court may fix, to be approved by the court as to surety, conditioned that he will furnish said child or wife with necessary and proper home, food, care and clothing, then the court may suspend sentence therein; provided, that upon failure of such person to comply with said undertaking, he may be ordered to appear before the court and show cause why sentence should not be imposed, whereupon the court may pass sentence, or for good cause shown may modify the order and take a new undertaking, and may further suspend sentence as may be just and proper.

SEC. 2.—All acts and parts of acts inconsistent with this act are hereby repealed.



SEC. 3.—This act shall take effect and be in force from and after its passage.

Although this law appeared to be an improvement its results were unsatisfactory. Its main defect was that it made no provision for admitting the testimony of the wife; and as Minnesota has the common law rule of evidence it was promptly held that the wife could not testify in a proceeding where the punishment was so highly penal. The result of this was that conviction without the testimony of the wife was in many cases difficult, or even impossible. In others juries refused to convict because the punishment seemed too severe for the offense; which seems singular in view of the fact that the punishment might be no more than three months in the county jail.

It would seem that the defect in the law might readily have been cured by adding a section making the wife a competent witness and letting the remainder stand. After two years' experience a bill was introduced to supply this omission and to make the offense a felony only after the desertion had continued for six months. For some reason not well explained this bill was wholly changed in the rush which preceded the adjournment of the legislature, and the act of April 14, 1903, took its place which, as all previous laws on the subject had been repealed by the act of 1901, now stands as the only law covering desertion or non-support of family on the Minnesota statute books.

#### NOT A CRIMINAL STATUTE

Although this law is very elaborate and resembles a criminal statute it is very different in that it makes neglect or desertion no longer a criminal offense. In fact, the man who is guilty of it is not charged with any particular offense, nor is any penalty assigned for his conduct. The court may order a man charged with neglect to be brought before it and, in case the facts warrant, may order him to support wife or children and he may be punished for disobeying the order of the court or refusing to give a bond that he will obey it, but not for anything criminal in the conduct itself. In case of disobedience the worst that can happen to him is to be shut up in jail. There is no provision for hard labor; and the consequence of this is that in numerous instances indolent

husbands have preferred to spend the winter in a comfortable jail rather than work to support their families. In this manner the community has been obliged to support not only the wife and children but the husband himself.

One object in making the offense a felony under the law of 1901 was to facilitate extradition. Under the present law extradition is wholly impossible. In addition to this the present law is objectionable in that action can only be begun by the wife herself, which puts all the burden of such a proceeding on her instead of allowing anyone familiar with the facts to make the information on which a suit to compel the husband to support his family could be started. This change makes Minnesota the only state in which the initiative in such an action is limited to the wife.

It will be noticed that the present law contains the provision for the wife's testimony although, not being a criminal proceeding, she would probably be allowed to testify without this; and in addition to this a separate act was passed by the legislature making the wife a competent witness in suits for desertion or non-support; so that although the present law has taken out all the effective parts of the previous law it has doubly covered the only defect in the former law, which has ceased to be so important in this.

In the language of one who is familiar with the conditions, "the present law is a farce." How any measure so ineffective and so at variance with all the best experience, either in Minnesota or in other states, could have been passed is difficult to understand; but there is a suspicion that certain influential men who had deserted their wives, and wanted to escape any punishment therefor, were instrumental in pushing through this unexpected measure in the confusion preceding the adjournment of the legislature. The situation is becoming so intolerable that it is almost certain that a better law will be enacted in place of this by the legislature which meets in January, 1905.

#### A LAW WHICH HAS NOT SECURED SUPPORT

The purpose of all laws on this subject ought to be to secure the support of the family by the husband and father rather than to allow him to neglect them and punish him for doing so. That this was not the case with some is illustrated by the law in Maine

on this subject. A reference to that will show that it provides a punishment for neglect of children, but the method of procedure makes it necessary for two or more citizens to complain to the municipal officers that any such child is neglected. These officers are required to give notice of a time and place for hearing this complaint and if the facts are established they must make complaint before a court before further action can be taken.

An inquiry of the overseer of the poor in one of the chief cities in Maine as to the practical operation of this law brought out the fact that only one action had ever been brought under it since he had been connected with the office or within his recollection, and a further question disclosed the fact that this had been twenty years, and that that action had failed because the law was so cumbrous; so that it may be said that this measure is useless in that city. When asked what was done in cases of non-support it was found that several families had been broken up, and the whole tendency seemed to be to provide for the children at public expense instead of endeavoring to compel the husband and father to support the family.

It was further stated that it was considered that the law of 1903 providing for the punishment by a term of ninety days in the House of Correction of vagabonds and persons neglecting their families would be effective in case of non-support as soon as a proper form of warrant could be made up for it, but there had not yet been time to determine just what could be accomplished. It seemed rather singular that recourse must be had to a law with a different primary object and the desirability of a statute intended directly to compel support is apparent.

#### THE DEVELOPMENT OF A GOOD LAW

The successive steps, by which the present law in Wisconsin was built up until the offense was made a felony applying to neglect or desertion of wife or children, are interesting.

The law of April 1, 1882, provided that "a father abandoning his child or children in a destitute condition is guilty of a misdemeanor," and shall receive the usual punishment therefor. It also made the wife a competent witness.

On April 18, 1885, this was amended so as to make it apply to any parent, for non-support as well as desertion, with the quali-

ing phrase "being of sufficient ability." The punishment was fixed at imprisonment in the county jail not less than thirty days nor more than one year, or a fine of not over \$500, or both. Section 2 of this law made the same provisions as to abandonment or non-support of wife. The words used as to both children and wife are "shall refuse or neglect to provide for," etc.

The act of April 9, 1887, united the two sections in one, using the words "shall unreasonably neglect," etc., and made the penalty not less than fifteen days' imprisonment in the county jail or workhouse—ten days of the fifteen to be on bread and water only at the discretion of the court—or imprisonment in the state prison not exceeding one year. It also made fuller provisions for trial in additional sections, the wife still being a competent witness.

While this act still declares the offense to be a misdemeanor the punishment makes the term inconsistent with the definition of felony in another section which defines it to be "an offense for which the offender, on conviction, shall be liable by law, to be punished by imprisonment in a state prison."

On April 11, 1889, a further change was made by inserting, in reference to children and also to wife, the words "or able to earn the means of their support," still declaring the offense to be a misdemeanor, although the penalty had made it actually a felony. This inconsistency was noticed and in a case of conviction under the statute its constitutionality was attacked on the ground that to punish a misdemeanor as a felony made the law invalid. The law was decided to be valid by the Supreme Court of the state in the January term of 1894, in which the court said: "This section is not invalid because it declares the offense a misdemeanor and fixes upon it the punishment of a felony. It is a question of construction whether the offense is a misdemeanor or shall be deemed a felony." By reason of the punishment the court construed it to be a felony; so that actually since 1887, as construed by the Supreme Court of the state seven years later, the offense of neglect or desertion of either wife or children has been a felony in Wisconsin, and the fact that a man does not possess property does not excuse him from the penalty of the law providing he is able to earn the means of supporting his family.

## A RECORD OF PROGRESS IN OHIO

The law in Ohio as to torturing or neglecting children found in Section 6984a was passed in 1872, and the last amendment of this was April 25, 1902, changing "deprives of" to "fails to furnish" necessary and proper food and clothing.

The most important law in Ohio found in Section 3140-2 was passed in 1886, and as originally drawn the bill made the offense a felony; but the other provisions of the bill made such changes that the legislature amended the original bill and made abandonment simply a misdemeanor punishable by imprisonment in a jail or workhouse not less than three months nor more than one year. The results accomplished by the provision for release on giving bond were very satisfactory, but much difficulty was found in the case of offenders who fled from the state; so that after an experience of some years the crime was on April 6, 1900, definitely fixed as a felony with an appropriate increase of punishment, and has so continued.

By the force of this law a very great improvement has been made in the condition of things in the state. During the year 1903 the four Humane Societies of Cleveland, Cincinnati, Toledo and Columbus collected \$60,589.77 from recreant fathers for the support of children who otherwise must have been supported at public expense. The society at Toledo is now collecting in this way from \$1,200 to \$1,500 a month, and a reliable authority states that the amount collected from this source throughout the state during 1904 will not be less than \$75,000. It is the certainty of punishment and the possibility of reaching offenders either within or without the state which makes these men do their duty to this extent; and besides this there must be many men who are supporting their children without being compelled to by law who would fail to do this if they believed it would be possible for them to escape the burden without punishment.

On October 31, 1903, there were seven men confined in the Ohio Penitentiary and one in the State Reformatory on account of neglect of children, and seven in these two places on the same date in 1904.

The law provides that, wherever imprisoned, men convicted of this offense shall be kept at hard labor, and it is the prospect of

this which induces so many men to give the bond which permits them to labor more advantageously outside the prison walls in the support of their families rather than to work as hard inside without any adequate result.

Having in view the purpose of providing support rather than of simply inflicting punishment a bill was introduced in 1889 providing that men so working in the penitentiary should be credited with a certain sum for each day of hard labor, one-fourth of which was to be retained by the state to offset the cost of supporting the prisoner and the other three parts paid to his family for their support and education. This bill failed to pass, but in 1899 a law was enacted applying to Toledo only which provided that a man convicted of abandoning his child or children should be imprisoned in the workhouse and kept at hard labor until he should work out his fine and costs at the rate of sixty cents per day for each day's labor, of which forty cents is to be paid to his wife for the support of his family. The purpose of this law was interfered with by the parole of prisoners so sentenced, in some instances, in order that the cost of keeping them might not make a poor showing for the workhouse management; but a recent amendment forbids such parole and gives the family the benefit of two-thirds of the amount so earned by a man imprisoned for not furnishing support for his children. With this change the law has been made more effective.

The law in Ohio applies only to children.

#### THE OBSTACLES IN A CIVIL SUIT

As showing the difficulty of accomplishing anything by civil suit when a man has no property, as is the case in almost all instances which come to charitable organizations, the facts of a case in Washington, D. C., may be stated. Application for relief was made to the Associated Charities by a woman with three children, aged five, three and one, who was entirely destitute. Her husband earned \$2.50 per day when he was willing to work, but this he only did occasionally, spending most of his time in drinking and its resultant idleness. Relief had been furnished from time to time, the woman had industriously done what she could to provide for the family, and repeated but unsuccessful efforts

had been made to reform the husband. The husband when seen would make no promise to resume work, but did begin on being sent for by his employer next day. A suggestion that he authorize the payment of his earnings to the wife in order to avoid the temptation to squander the money in drink was met with an indignant refusal, in spite of the suggestion of the alternative of a suit.

In another fit of intemperance, after a short period of work, the husband used up all he had earned, and his wife and children again had absolutely nothing to eat, but an effort to prosecute him in a suit for maintenance, under the section which had been indicated as a sufficient remedy when this inquiry was begun, failed for several reasons: First, the suit could only be started by the wife, and, through fear, she absolutely refused to begin it; second, to prosecute required the services of an attorney to bring the action in the Supreme Court, at an estimated expense for costs and fees, including a probable process for contempt, of \$50; and third, because it was stated that it would be difficult by this proceeding to force a man to work if not willing. There was the further suggestion that he might at any time defeat the whole proceeding by leaving the District.

It was, therefore, necessary to prosecute him under the act of March 3, 1901, but before this could be done he went over to a neighboring town in Virginia, and, under the impression that the offense was not extraditable, nothing further was attempted.

#### THE QUESTION OF THE MAN'S ABILITY

A prosecution under this act might have failed as it has in other instances because the section limits the application of the law by the qualifying words "of sufficient financial ability," and the court has repeatedly held that a man without means was therefore not subject to the law, notwithstanding the fact that he might be able to earn good wages, as this man could, if he cared to work.

This difficulty might have been readily removed by the use of the language in another section of the same act providing that a parent who is able must contribute to the support of a child after it has been committed to the care of the Board of Children's Guardians if such parent is able to contribute "either by reason

of having means or property or having an income consisting of wages or salary due for personal services, or labor, or otherwise," which implies the obligation of a parent to earn money for the support of his child if he is able to do so.

This point is covered in the Wisconsin law as has been already shown, and the law in Ohio removes all doubt about it by the expression, "being able either by reason of having means or by personal services, labor or earnings." The similar provision is one of the redeeming features of the present Minnesota law, and in Alabama, New Mexico and North Dakota the law contains similar expressions. Colorado, Connecticut and West Virginia excuse a man only in case it can be shown that "owing to physical inability or other good cause, he is unable to furnish support." New York and Rhode Island require him to furnish support "according to his means." Delaware, Vermont, Michigan, in the law relating to families, and Pennsylvania, in the law of 1903, use the words "being of sufficient ability," but the other thirty states do not express any exemption, leaving any excusing facts to be taken into account by the court.

#### FORCED TO LABOR IN SPITE OF HIMSELF

Some years ago the law of Canada provided that a man able to support his family should be punished for wilfully refusing or neglecting to do so. A man in the city of Halifax who earned good wages as a cutter of leather, when willing to work, became intemperate and fell into shiftless ways, bringing the family into destitute circumstances. The wife and children were deserving and when she applied to some charitably disposed people for assistance it was readily granted. Trying others, she collected \$6 to \$8 a day, whereas her husband when he worked earned but \$2. The plan worked well, the family was comfortable, the husband was well dressed and always had in his pocket a little money with which to buy liquor; but the wife and children were becoming demoralized.

The Secretary of the Society for the Prevention of Cruelty to Children accordingly brought the man into court under the law and endeavored to force him to support his family instead of allowing them to beg. Although the facts were fully shown it was



apparent, as the law stood, that if the man had nothing the court could not punish him for giving nothing to his family. The suit failed and the family continued to live by charity. The Secretary at once made an effort to have this defect in the law remedied, and an amendment was passed by the Dominion Parliament which met soon after, changing the paragraph to make it apply to persons who, "being able to work and thereby or by other means to maintain themselves and families, wilfully refuse or neglect to do so." Armed with a certified copy of the law forwarded in advance, after having learned from the employer and his foreman that work was waiting for the man in question, the Secretary again demanded that he should go to work to support the family. He was met with a prompt refusal, and on inquiring if this was on account of illness was told by the man that it was not but simply because he did not care to work, and that neither the Secretary nor any other man could force him to do so.

The delinquent was brought into court within an hour and under the new law sentenced to three months in the workhouse, with the promise of six months if he was ever brought into court again for the same offense. In spite of his rage at being caught in this way the punishment had such a beneficial effect that, realizing that the easy life was no longer possible, he went to work, has continued to work and is now properly supporting his family. As a matter of fact the law was passed to catch this particular man. It caught him and has made a good citizen of him, and no doubt of many others, who have been kept from yielding to the temptation to fall into similar shiftless ways.

#### DESERTION OR NEGLECT CRIMINAL ONLY WHEN SUPPORT IS NEEDED

It has been stated that desertion or neglect of family becomes a matter of public concern only in cases where the community, or some of its members, are required to furnish the support which the husband or father fails to supply; and that a case of desertion where the family has means of support, or where the husband or father still continues to supply them, may be a ground for divorce proceedings or a civil suit for maintenance, to be begun by the wife, but not for a criminal prosecution, either by the wife or any other party on her behalf. Nothing is said of any excuse for non-

support in the laws of eleven of the states which make desertion or non-support a criminal offense, and fourteen others qualify it only by the word "necessary." Alabama, Arkansas and the Indian Territory apply it where the family is left "without means of subsistence"; Delaware, Pennsylvania and West Virginia where the wife or children are dependent upon the husband for support or need such support; Georgia and Wisconsin where they are "left in a dependent or destitute condition"; New Mexico where the family is left "without sufficient means of support," and the District of Columbia where the father fails to "furnish such food, clothing and shelter as will prevent the suffering and secure the safety of his child." Indiana, Mississippi, New Jersey in one of its laws, New York, Rhode Island and Wyoming directly recognize the interest of the public in requiring as a condition that the wife or children be left a charge upon or in danger of becoming "a charge upon the public." The recent laws of Louisiana and Illinois, heretofore described, as well as the law of Virginia, the latest law on this subject passed by any state, speak of the wife or children as being left "in destitute or necessitous circumstances," which well expresses the intention of a good law, because it does not subject the husband to punishment unless his neglect causes suffering which deserves it.

#### EXTENUATING CIRCUMSTANCES

Another qualification which is found in some form in the laws of twenty-seven states refers to some misconduct on the part of the wife or some possible fact in the legal aspect of the case which might justify a man in refusing to furnish support. Thus, in the statute as to neglect of children which is spoken of as having substantially the same form in ten states, as well as in South Carolina, the words "without lawful excuse" are used, implying that if the father has any excuse, which the law can properly recognize, it may be shown; Delaware and Pennsylvania use the words "without reasonable cause" and "without reasonable excuse"; Connecticut and Michigan, in one of its laws, use the words "unlawfully"; Kentucky, Massachusetts, North Dakota and Wisconsin "unreasonably," and Illinois, Indiana, Missouri and Nebraska "without cause" or "without good cause." Louisiana, Maryland

and Virginia in the recent laws above spoken of, as well as Mississippi, employ the expression "without just cause," which seems to cover the ground in allowing the husband or father to plead any proper cause which may excuse him, and so to remove any danger of doing him an injustice in prescribing an adequate punishment where no such cause can be shown. Florida is alone in describing the justifying cause or causes as being such "as are recognized as ground or grounds for divorce in this state." It might seem as if such a reason as this is the only one which can properly excuse a man from fulfilling the obligations he has assumed.

#### THE WIFE SHOULD BE A COMPETENT WITNESS

In many cases the wife, through fear or out of wifely consideration which may possibly be no longer merited, will hesitate or refuse to bring suit against the husband, even though such a suit ought to be brought rather than to have her seek the support of charity or suffer the hardship of the struggle to supply it herself. No one can bring such a suit in Minnesota except the wife, but in all the other states it may be brought on information under oath by anyone having knowledge of the facts, although Colorado, Rhode Island and some other states state particularly that it may be brought by certain officers who are mentioned. Equal in importance to the possibility of having suit begun by someone else is the necessity of making the wife a competent and compellable witness. In many cases conviction can hardly be had without her evidence, and even when, under pressure of the treatment to which she has been subjected, she gives the information on which the husband can be arrested, her courage is likely to weaken when the trial of the case comes on. If, then, she can refuse to testify, thus making herself responsible to her husband for any trouble her evidence causes him, she may be afraid to give it or, if she does give it, may subject herself to ill-treatment afterwards by him on account of it. If the law compels her to testify the husband has no reason to condemn her or attempt to punish her for doing so. This makes it much easier to bring out the facts and secure conviction where it is deserved. The wife is not a competent witness in eighteen states—Arizona, Arkansas, California, Idaho, Indian Territory, Kentucky, Louisiana, Montana, Nebraska, New

Mexico, North Carolina, Oklahoma, South Carolina, South Dakota, Utah, Washington, West Virginia and Wyoming. She is a competent but not a compellable witness in the District of Columbia, Kansas, Massachusetts and Rhode Island, and it is stated that in Connecticut her testimony, if offered, would not be refused. In all the other states, either by general provision or by the laws on this subject, she is a competent and compellable witness.

### JURISDICTION

In the states of Georgia, Illinois, North Dakota, South Dakota, Virginia, Washington and Wisconsin cases of non-support or desertion must be tried in the County or City (including the Municipal) Courts; in Pennsylvania in the Court of Quarter Sessions; in South Carolina in the Court of Sessions; in North Carolina in the Inferior Court; in New Hampshire in the Superior Court, and in Louisiana and Rhode Island in the District Court. In the District of Columbia the Police Court has jurisdiction, and in the other thirty-one states the Justices' Courts; and the justice may bind over to the next higher court in New Hampshire, North Carolina and North Dakota, Pennsylvania and South Dakota.

The advantage of having jurisdiction of these cases in the justices' courts or court of lowest rank is that it is always in session and the matter may receive the immediate attention which such cases deserve. One obstacle which was thrown in the way of the operation of the law of 1901 in Minnesota was that offenders were bound over to the District Court and liable for that reason to lie for several months in jail before trial. Why this difficulty could not have been readily surmounted by an addition giving jurisdiction to the justice's court is not apparent, as this court has jurisdiction in three of the states in which the offense is now a felony.

### EXTRADITION

As to the possibility of extradition for the offense of family desertion or non-support under existing laws an impression has been generally and persistently prevalent that it could not be required except where the offense is a felony. The necessity of it, espe-

cially in the case of several states where the proximity of large cities to boundary lines makes escape to another jurisdiction very easy, has been keenly felt. The belief that if legal proceedings were vigorously pushed against any man he might find refuge from them by going to another state has had a decidedly discouraging influence and prevented many suits which would have been brought if there had been a fair prospect of being able to enforce the judgment of the court in case of conviction. In like manner, where husbands have deserted to other cities, no attempt has been made to bring them back, even though their location was well known and they were earning enough to support the abandoned family, for the reason that it has been felt that they could not be reached under present laws.

The experience in Michigan where the offense as to children has for years been a felony, and the good results which have followed in Ohio since the offense was there made a felony in 1900, have increased the desire which many of those responsible for the conduct of charitable organizations have long had to have the offense made a felony in other states, as it has recently been made in Nebraska, and in Michigan as to the desertion and neglect of wife as well as children. It is because of this feeling that extradition should be made certain that bills were last year introduced in Indiana, Kentucky and New York to raise the offense to a felony and that the subject has been agitated with a view of this change in other states.

The preamble to the resolution of the National Conference of Charities and Correction, in 1903, hints at the prevalent impression in stating that in twenty states "deserters know that they have only to step over the state line for immunity," and, after declaring its belief "that the application of extradition to this class of family deserters will prove the most effective remedy and deterrent," recognizes the possibility of extradition under existing laws by requesting "the governors of the different states of the United States to co-operate in checking this growing evil by exercising their powers of extradition by issuing requests for the return of fugitive deserters whose families are dependent, as well as by honoring requisitions from other states." In the replies received from some of the governors to whom this resolution of the Conference

was forwarded, it was stated that requests for such offenders had been or would be honored; but one of them suggested that the problem consisted in securing proper legislation in the several states to make desertion a felony, so that a governor would have the same right to issue requisitions for these fugitives as in the case of any other felony.

When this investigation was begun it was the accepted idea in the District of Columbia that a man could not be brought back even from Alexandria under the law which made neglect of children a misdemeanor. That the same opinion was held in other jurisdictions is indicated by the fact that when the form of inquiry, covering the matter of extradition as one of the twelve points, was sent to other states, good authorities in several, practically conversant with the subject, declared that the offense was not extraditable. It was, therefore, a matter of interest to note in consulting the texts of the laws that a misdemeanor, being a crime, was apparently covered by the United States law requiring extradition. It was subsequently found that the study of the subject in Boston stated that extradition could be had to states where non-support is a misdemeanor only, while the Philadelphia study says that "both misdemeanor and felony are within the extradition law, but practically governors are unwilling to act except in case of felony." Under the circumstances these facts indicate the desirability of ascertaining what the situation is as to extradition in the various states and what right there is to demand it under the present laws.

#### EXTRADITION IN THE UNITED STATES CONSTITUTION

The right to demand extradition rests primarily upon the provision of the United States Constitution found in Article IV, Section 2, which is as follows:

"A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime."

Congress supplied the legislation necessary for carrying out the requirements of this clause by the act of February 12, 1793, in which the words "treason, felony or other crime" are again used.

The fundamental law of the United States therefore imposes this obligation upon each of the states, and the law of sixteen of them recognizes it by using the identical words "or other crime," while fifteen others refer to the United States laws.

The force and scope of this right of extradition are so fully set forth and the reasons for it so clearly stated in the decision of Chief Justice Taney in the case of *Kentucky v. Dennison* in the Supreme Court of the United States, in the December term, 1860, reported in 24 Howard U. S., 66, that it seems worth while to quote at some length from the decision.

A requisition had been made by the Governor of Kentucky on the Governor of Ohio for the delivery of a man indicted in Kentucky for seducing a slave to leave a master. Governor Dennison refused to deliver him, on the opinion of the Attorney-General of Ohio, on the ground that the offense was not treason or felony, nor a crime in Ohio, though it was a crime in Kentucky, and that the rule which should govern should be "limited to such acts as constitute either treason or felony by the common law, as that stood when the Constitution was adopted, or which are regarded as crimes by the usage and laws of all civilized nations." In his opinion Chief Justice Taney says;

"The words, 'treason, felony or other crime,' in their plain and obvious import, as well as in their legal and technical sense, embrace every act forbidden and made punishable by a law of the state. The word 'crime' of itself includes every offense, from the highest to the lowest in the grade of offenses, and includes what are called 'misdemeanors,' as well as treason and felony. 4 Bl. Com. 5, 6 and note 3, Wendell's Edition."

"But as the word 'crime' would have included treason and felony, without specially mentioning these offenses, it seems to be supposed that the natural and legal import of the word, by associating it with those offenses, must be restricted and confined to offenses already known to the common law and to the usage of nations . . . and that they do not extend to acts made offenses by local statutes, growing out of local circumstances."

"But this inference is founded upon an obvious mistake as to the purpose for which the words 'treason and felony' were introduced. They were introduced for the purpose of guarding against any restriction of the word 'crime,' and to prevent this provision from being construed by the rules and usages of independent nations in compacts for delivering up fugitives from justice . . ."

"The conclusion is irresistible that this compact . . . included, and was intended to include, every offense made punishable by the law of the state in which it was committed, and that it gives the right to the executive authority of the state to demand the fugitive from the executive authority of the state in which he is found; that the right given to 'demand' implies that it is an absolute right; and it follows that there must be a correlative obligation to deliver, without any reference to the character of the crime charged, or to the policy or laws of the state to which the fugitive has fled."

" . . . The duty of the Governor of the state where the fugitive is found is, in such cases, merely ministerial."

"Act of Congress, Feb. 12, 1793. Sec. 1. 'Whenever the executive authority of any state in the Union . . . shall demand any person as a fugitive from justice from the executive authority of any such state or territory to which such person shall have fled, and shall, moreover, produce the copy of an indictment found, or an affidavit made before a magistrate of any state or territory, as aforesaid, charging the person so demanded with having committed treason, felony, or other crime, certified as authentic by the Governor or Chief Magistrate of the state or territory from whence the person so charged fled, it shall be the duty of the executive authority . . . to cause the fugitive to be delivered' . . ."

" . . . The words 'it shall be the duty' were not used as mandatory and compulsory, but as declaratory of the moral duty which this compact created, when Congress had provided the mode of carrying it into execution. The act does not provide any means to compel the execution of this duty, nor inflict any punishment for neglect or refusal on the part of the executive of the state; nor is there any clause or provision in the Constitution which arms the Government of the United States with this power . . ."

" . . . The language of the act of 1793 . . . does not purport to give authority to the state executive to arrest and deliver the fugitive, but requires it to be done, and the language of the law implies an absolute obligation which the State authority is bound to perform. And when it speaks of the duty of the Governor it evidently points to the duty imposed by the Constitution in the clause we are now considering. The performance of this duty, however, is left to depend on the fidelity of the state executive to the compact entered into with the other states when it adopted the Constitution of the United States and became a member of the Union . . ."



"But if the Governor of Ohio refuses to discharge this duty, there is no power delegated to the General Government, either through the Judicial Department or any other department, to use any coercive means to compel him."

In this opinion the whole court concurred, and also in the opinion of Justice Harlan, twenty-four years later, in *Ex parte Reggel*, 114 U.S., 642, in which he quotes Chief Justice Taney and strongly affirms the same principle. Other decisions of the United States Supreme Court follow this opinion.

The purpose of the Constitution in mentioning treason or felony was not to limit the right of extradition in any way, but to make sure that it included these two with all ordinary crimes, and to shut off the possibility of an attempt by any state to refuse a demand in case of either of them, under an impression that its sovereign powers entitled it to do as independent nations may in case of political offenses.

The provision was made for the mutual benefit of all the states, and, notwithstanding the absence of any means of punishment in case a demand is refused, the obligation of the governor of any state to grant it in case of any crime whatever against the laws of another state is unquestioned.

#### STATE DECISIONS

The Georgia decision, given seven years earlier, in *Johnston v. Riley* (13 Ga., 97), declares the obligation plainly in the syllabus, as follows:

"When a demand is made by the executive officer of one state for a fugitive from justice who has taken refuge in another state under the provision of the Constitution and laws of the United States and a copy of the indictment found or affidavit made . . . charging the person so demanded with having committed a crime against the laws of the state from which he fled, the executive officer of the state, upon whom demand is made, . . . must be governed by the record produced; he has no authority . . . to look behind the indictment or affidavit, and inquire, whether by the laws of his own state, the facts charged therein, would constitute a criminal offense; but it is made his imperative duty, un-

der the supreme law of the land, which he has sworn to support, to surrender up such fugitive to the authorities of the state whose laws have been violated, having jurisdiction of the crime."

Other states have made similar decisions. It has not seemed worth while to try to look them up in each state, much less to make a complete list of them, because the states must obey the United States laws; but mention may be made of the following, which have come to light in looking the subject up:

Before Chief Justice Taney's opinion in *Kentucky v. Dennison*:  
 1832—New York.—9 Wend., 212; *Clark's Case*.  
 1847—Delaware.—4 Har. Del., 572; *State v. Buzine*.  
 1848—New York.—1 Sand., 701; *Hayward's Case*.  
 1852—New Jersey.—23 N. J. L., 311; *Fetter's Case*.  
 1858—Vermont.—31 Vt., 279; *In re Greenough*.

Since that opinion:

1861—New Jersey.—32 N. J. L., 147; *In re Voorhees*.  
 1869—Iowa.—28 Iowa, 391; *State v. Hufford*.  
 1873—Massachusetts.—112 Mass., 409; *Brown's Case*.  
 1874—New York.—56 N. Y., 182; *People v. Brady*.  
 1874—Indiana.—48 Ind., 123; *Morton v. Skinner*.  
 1881—Wisconsin.—52 Wis., 699; *In re Hooper*.

Most of those since, if not all, refer to Chief Justice Taney's decision. The crime in several was misdemeanor, as in the Indiana case, and in the Vermont case not even that was stated; but all agree that it is the duty of the state on whom the demand is made in accordance with the United States laws to deliver up the fugitive whatever the crime charged may be. The point may be considered settled.

#### DEFINITION OF CRIME

Crimes are commonly divided into felonies and misdemeanors. As usually expressed the definition is, "A felony is a crime which is punishable by death or by imprisonment in a state prison; every other crime is a misdemeanor"; though in some cases the word "offense" or "public offense" is used. This common definition is found under the laws of Alabama, Arizona, California, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Maine, Mas-

sachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, New York, North Dakota, Ohio, Oklahoma, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia and Wyoming.

In Colorado, Michigan and Wisconsin felony is defined as usual, leaving all other crimes to be considered misdemeanors, although they are not definitely stated to be so. Louisiana declares that the common law of England is to be followed as to the classification of crimes, and Arkansas and the Indian Territory define a crime or misdemeanor to be "any act committed or omitted in violation of a public law forbidding or commanding it." No definition of crime is found in the laws of Connecticut, District of Columbia, Delaware, Maryland, New Hampshire, New Jersey, North Carolina, Pennsylvania, Rhode Island and South Carolina, but in these states the common law meaning expressed in the ordinary definition would govern.

The definition of crime is therefore so broad as to make the offense of which we are speaking, either by its punishment or by the terms of the statute itself, a proper ground for extradition in all the states which provide a punishment for it, unless it be in the case of the "disorderly persons" laws of New Jersey and New York.

It is not necessary that the charge be by indictment. The act of Congress of 1793 expressly says it may be by affidavit.

#### STATE LAWS ON EXTRADITION

While the United States laws above quoted are binding on the various states, whether there are any state laws or not, almost all the states have enacted laws on the subject giving the ground of extradition, as follows:

Referring to but not quoting United States laws.—District of Columbia, Florida, Georgia, Illinois, Indiana, Indian Territory, Kansas, Kentucky, Louisiana, Maine, Minnesota, Missouri, New Hampshire, Rhode Island, Vermont.

"Treason, felony or other crime."—Alabama, Arizona, Arkansas, California, Delaware, Idaho, Massachusetts, Montana, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Utah, Virginia, West Virginia.

"Or any other crime."—Michigan, Washington, Wisconsin.

"Crime."—New York.

"Criminal offense."—Mississippi.

Making the Governor judge as to facts; with United States laws as basis.—New Jersey.

Misdemeanor not included in list of crimes stated.—Colorado.

Not definite as to crimes.—Connecticut.

No law on the subject.—Maryland, Pennsylvania.

"An offense which would have been crime in this state."—Nebraska, Wyoming.

"An offense punishable by death or imprisonment in a state prison."—North Carolina.

"An offense punishable by imprisonment in a state prison."—South Carolina.

It will be noticed that all except the last three conform to or are not at variance with the United States laws. Only in the last two does there seem to be any appearance of an intention of limiting the ground for extradition to felony; and in both states a misdemeanor is considered extraditable in accordance with the United States laws, as it should be.

#### THE ATTITUDE AS TO EXTRADITION IN VARIOUS STATES

It seems probable that the disinclination or refusal in some of the states to demand or grant extradition for inferior crimes grew in part out of the impression gained from the special mention of "treason or felony" in the United States Constitution. An additional reason was the reluctance to go through the formality necessary in the case of unimportant offenses, and to unduly multiply the instances by so recognizing all such offenses. This was possibly because of the fact, stated in the decision of Chief Justice Taney, that there is no power to compel a governor to grant extradition in case he refuses, which has seemed to give the governors some discretion.

There appears to be something like an understanding between some of the states that extradition shall not be asked or granted for trifling offenses; but family desertion is not a trifling offense, and if the obligation to grant extradition in case of it was well understood by those who have occasion to ask for it, there is no doubt that many men might be brought back under present laws.

It has been gratifying to find in the course of this investigation that the right of extradition is so generally admitted and that it has been accomplished in so many states where the offense is not a felony. The resolution of the National Conference has undoubtedly done much to awaken an interest in this matter, as is shown by the following replies to inquiries addressed to the officers of some of the states :

Alabama.—Attorney-General—"I think you correctly state the extradition laws of this state on the subject."

Arkansas.—Attorney-General—"I regard the foregoing as correct."

California.—The Governor—"I believe with you that a misdemeanor is an extraditable offense under the law."

In his reply to the Conference resolution, he said : "The natural impulse with any governor would be to grant a requisition when the offense charged is the detestable one of abandonment of children."

Colorado.—Attorney-General—"I have read the answers and find they are all correct."

Florida.—Attorney-General—"The statement is correct ; it needs no alteration."

Georgia.—Secretary Executive Department—"This offense is extraditable under the laws of Georgia, the same as any other misdemeanor. During the past year the Governor of this state has made several requisitions on the governors of other states for fugitives charged with violation in this state, and the requisitions have always been honored."

In his reply to the Conference resolution, the Governor said : "Am in full sympathy with the resolution."

Illinois.—Secretary of State—"This state has issued since January 1, 1899, forty-two requisitions on foreign states for abandonment ; and has since January 1, 1898, signed fifteen requisitions from foreign states for the same crime."

Indiana.—Attorney-General—"The answers are correct."

Kansas.—Attorney-General—"The offense is extraditable, as all crimes are, but the 'Interstate Rules' provide that extradition for trivial offenses shall not be asked or granted. The Governor of Kansas has honored requisitions for offenders as above on request of the Governor of Illinois."

Louisiana.—Attorney-General—"It is my opinion that the offense is extraditable."

Mississippi.—Attorney-General—"With the references corrected this statement would be correct."

Maryland.—Attorney-General—"Your abstract of the Maryland law is correct."

New Mexico.—Solicitor-General—"I should say it undoubtedly was extraditable."

In replying to the Conference resolution, he says: "The Governor authorizes me to say that he will cheerfully grant requisitions upon him for the rendition of this class of offenders."

North Carolina.—Governor's Private Secretary—"It is the construction of the law in this office that any offense, however small, against the law of the demanding state, is extraditable. A man can be extradited for abandonment."

In replying to the Conference resolution, the Governor said: "I have never refused a requisition for a person charged with the crime about which the resolution relates. I would unhesitatingly issue a requisition for a criminal under our law who might seek the shelter of a sister state for this crime."

North Dakota.—Governor's Office—"Yes."

Rhode Island.—Attorney-General—"Correct."

Utah.—Attorney-General—"Yes, strictly speaking, but the governors are not disposed to extradite for misdemeanors."

West Virginia.—Attorney-General—"It would, in my judgment, be extraditable."

Governor's Private Secretary—"Governor White has honored two requisitions from Ohio for non-support. As yet we have not been called upon to issue a requisition for this cause upon the governor of any state, but should we have occasion to do so, I have no doubt but that it would be promptly honored. It is discretionary with the Governor whether or not he will honor a requisition, especially when the offense is classed as a misdemeanor."

In reply to the Conference resolution, the Governor said: "Many of our states need advanced legislation along this line," indicating full sympathy with the resolution.

Wyoming.—The Governor—"The above is correct."

These are all official replies in which the form of inquiry or the answer distinctly asserted the right of extradition. In some cases the form was returned approved without any objection to the remarks, which implied that the question as to extradition should be answered affirmatively. Among these are the following:

Delaware.—The Governor—"The above is substantially a correct analysis."

Idaho.—Executive Secretary—"Your data is correct."

Oklahoma.—Assistant Attorney-General—"The list of questions to which you have evidently supplied answers are correctly answered."

South Carolina.—Attorney-General—"The synopsis which you have made . . . is correct."

South Dakota.—E. Hendrickson, Chief Clerk.—Returned without objection.

Vermont.—Governor's Office—"Correct."

Virginia.—Secretary Commonwealth—"Correct."

Replying to Conference resolution, the Governor said: "I heartily concur in the sentiments expressed in the resolution."

In some cases, instead of troubling the executive or law officers of the state, the inquiries were sent to officers of Boards or Associations especially interested in the subject, by whom they were, in some cases, referred to attorneys. Replies were received as follows, either to direct statements or questions implying an affirmative answer as to extradition:

District of Columbia.—Assents.

Kentucky.—"The answers given in relation to family desertion and non-support of family are correct."

In reply to the Conference resolution, the Governor said: "Would not stand upon a technicality to protect a man charged with deserting his family. Recently honored a requisition from a neighboring state for a man charged with this offense."

Maine.—"In regard to extradition, it is in their power (the governors) to grant it for this offense if they see fit."

Massachusetts.—"They are all correct."

Montana.—Assents to the statement.

New Hampshire.—"Yes; but it is not often tried."

Answering the Conference resolution, the Governor said: "Am glad to say that I heartily commend the tenor of the resolution."

New Jersey.—"It is considered to be extraditable as a misdemeanor."

New York.—"As far as my knowledge goes in relation to the citations made I believe they are correct."

Pennsylvania.—"We consider the offense extraditable."

Washington.—"A misdemeanor under the laws of this state is a crime. As such it is extraditable."

## EXTRADITION WHERE OFFENSE IS A FELONY

In the above the states in which the offense is a felony are not included, as no question could be raised as to extradition in them. In Michigan the present Governor during his two terms has issued four requisitions for deserters and honored about as many, and his secretary suggests: "In view of the small number of these cases it is fair to presume that the practice of honoring requisitions for this class of criminals has added to the effectiveness of the law."

In Nebraska no information could be obtained as to the results of the law, which has been in operation for only a short time. In the governor's reply to the Conference he declares, "I am in hearty sympathy with the movement."

In Ohio it was stated at the governor's office that about fifteen extraditions have been made each year since the passage of the act in which the offense was made a felony.

In Wisconsin the Secretary of State writes that requisitions have been issued for the crime of abandonment in the last five years as follows:

1900.....	5
1901.....	3
1902.....	2
1903.....	0
1904.....	4

indicating that many more might have been obtained if they had been asked for.

## EXTRADITION THEREFOR NOT IMPOSSIBLE

In not one of the forty-four states in which desertion is a criminal offense did state officials say that it is not extraditable. In only two, Arizona, where the Attorney-General declined to give an opinion, and Connecticut, where the Executive Secretary said he had never heard of an instance of it for desertion, did they hesitate to express the opinion that it is extraditable. The situation as to the offense in the states is as follows:



Felony, and unquestionably extraditable.....		4
Declaration or assertion that it is extraditable:		
Official .....	26	
Unofficial .....	10	
	—	36
Declined to express an opinion in replying.....		2
No report from Indian Territory and Missouri....		2
		—
		44

As to the two not reported on there can be no more question than in the thirty-six from which an affirmative opinion has been secured. The facts given show clearly that extradition is now an admitted right in all but a few of the states in which desertion is a criminal offense; that in some of these, in which the offense is not a felony, the governors have been in the habit of granting it, and that in quite a number of others they stand ready to grant it if it is requested. The possibility of it has been stated thus fully because during this inquiry several instances have been found where those responsible have been kept from bringing back offenders only by an impression that existing laws do not give the right to do so, and have expressed the intention of making the attempt on finding that they do; and the information may be useful to others.

#### CONTRARY IMPRESSIONS

For instance: In one state in which it has been attempted to make the offense a felony, one of the leading men in charities said in answer to the inquiry as to extradition, "Not considered so." "Under the — law wife desertion is a misdemeanor and therefore not extraditable. In extremely flagrant cases, the Governor has requested the return of the offender, but because the offense is simply a misdemeanor, it is his rule not to issue extradition papers."

An attorney in the same state, greatly interested in this subject, in replying, said: "Probably not extraditable. I think our courts have held the contrary to your Section 10."

As no response was received to requests for these decisions the matter was finally submitted to the Attorney-General, who promptly and without qualification approved the form of inquiry

in which it was stated that the offense is extraditable. If this impression, that a misdemeanor is not extraditable, prevents requests for extradition from being made the governor is not responsible for not granting them. In each of the four states by which this state is bounded extradition is now being granted, and there is no reason why he should refuse if asked.

In another state the reply states that a leading lawyer, to whom the question was referred, says "he does not believe it would be possible under our laws, according to construction by Federal courts, to secure the extradition of such an offender. He infers that the Federal courts, especially those sitting in this state, have not construed a misdemeanor of this type to be a crime." Further investigation brought out a positive opinion that the offense is extraditable under the laws of that state, and in forwarding it the writer says: "It seems that this matter has never been thoroughly canvassed here before, as it is the prevailing opinion of those among whom we have talked with before that a family deserter, a man who would abandon his children even, being guilty only of a misdemeanor could not be extradited."

An inquiry as to what benefit is being received from extradition in Wisconsin brought the following reply: "Desertion is greatly on the increase in our state. In the year 1903 we dealt with 163 cases of wilful desertion. In 1904 we will have more than 200. In this number is not included cases of non-support, of which we have a great many. You are mistaken as to our laws for desertion, which is not a felony where offenders can be sent to state prison, but is a misdemeanor punishable by imprisonment in House of Correction or county jail for not more than one year. Under our laws we cannot bring any one back from other states." As there seemed to be some misunderstanding about this, due perhaps to the confusion on account of the use of the word misdemeanor with the penalty of felony, further questions were asked which brought the following reply: "I thank you very much for your letter, as it has given me information which will help me considerably in the future. . . . The Judge of District Court, and also our District Attorney, said they knew this before, but doubted if our governor would sign requisitions." The writer further states that nine years ago with a requisition

from Governor Rusk he went, as the appointed agent, to bring back a deserter from Louisville, Ky.; but although the Governor of Kentucky had accepted the requisition the Kentucky court refused to send back the man, saying "the baby laws of Wisconsin are not good in Kentucky." It was probably from this experience, as well as from the off-hand opinions of former legal officers, that the impression was received that extradition was not possible under the Wisconsin laws. This has prevented any attempt in that city to bring back any of the growing number of deserters, but it is now stated that on the first opportunity an effort will be made which no doubt will be successful.

#### EDUCATION OF PUBLIC OPINION

The expression used in Kentucky has a strange sound in the light of Chief Justice Taney's decision. Improved laws in other states and the sentiments expressed by different governors, including the Governor of Kentucky, show that public sentiment has changed since this expression was uttered. Only through public sentiment can any law be made effective. The demands in several states that desertion be made a felony spring from a sense of the gravity of this growing evil and the necessity of checking it. So far as this change is needed to make the way to extradition any plainer or easier it is imperative that it be made. Without any reference to that object the offense is worthy of being put into that grade so that aggravated cases may be properly dealt with. There can be no possible objection to doing this on account of severity in case a punishment as mild as three months in jail at hard labor is provided, unless it be that the present laws in any state would cause a delay for a trial for felony; and that difficulty might be obviated by giving authority to the justices' courts to try such cases, as in Michigan, Nebraska and Ohio at present.

#### EXPENSE OF EXTRADITION

One difficulty in the way of extradition is the cost. This varies with circumstances and is difficult to estimate. In Ohio the expense is roughly estimated to be \$10 to \$12 in any case, exclusive of attorney's fees. The Wisconsin law allows the agent who goes

for the deserter \$8 per diem without mileage. Sometimes lack of money for the cost prevents extradition when otherwise possible; but with effective laws this money would very often be well invested. The only known instance in which a deserter was extradited in Massachusetts is given in Miss Smith's study before referred to. The agent who went to New Hampshire for him was not obliged to raise the question of right to demand as the man came on seeing the papers. His return cost \$21.25 and resulted in his at once giving a bond of \$400 to support his family, on which he had been paying \$5 a week up to last accounts. The gain in enforcing the law in such an instance is apparent, and when the saving to charitable societies in cases where the fear of extradition keeps men from deserting is considered, not only is the necessity of such a law established but a question is raised as to whether the county or municipal authorities ought not to assume the cost of bringing back deserters, or whether, in case they will not, the charitable associations themselves would not be warranted, under certain circumstances, in furnishing the money for the purpose.

#### EXTRADITION BENEFITS THE STATE

This indicates that it is to the advantage of the state for the governor to grant requisitions for family deserters. Unlike others who are brought back to be punished at the expense of the state, and so cause a loss to the community, these men are wanted to take up forsaken duties, to resume burdens which the community must otherwise bear for them. With an effective law, like that in Ohio, the financial advantage in reclaiming these wanderers can be easily shown; and it can hardly be that a governor to whom the moral and financial reasons are clearly made known will refuse to heed requests for requisitions, which he has the power to grant, in cases where it seems worth while to others to incur the trouble and expense of bringing a deserter home.

#### SUGGESTIONS AS TO SOME FEATURES OF A GOOD LAW

It is not to be expected that any one law would exactly suit all communities, even if it could be enacted, and in every case existing laws and experience under them should be carefully con-

sidered in determining how any apparent needs can be best provided for; but speaking generally a comparison of the laws and their results suggests some general features which a law intended to reach the usual cases of desertion and neglect should contain.

1. The law should make it an extraditable criminal offense. As has been shown, a civil suit, with its delays and expense, is not practically available when a man has little or no property, as is the case with most of those whose families apply for aid; and as desertion or neglect is a crime in that it springs from a moral defect and robs society by forcing it to give up some of its resources for the support of the neglected family, it should be treated as a crime and punished as such.

Only Iowa, Minnesota, Nevada, Oregon, Tennessee and Texas do not now make it a crime.

That it should be an extraditable offense has been fully shown, and hence the law should plainly state that it is a misdemeanor at least; and, if there is any question about securing requisitions for deserters in that case, it should be made a felony. But if made a felony there should be a considerable range in the penalty affixed, even down to a reasonably short jail sentence with hard labor, so that while aggravated cases may be properly punished there will be no excuse for failing to find a man guilty when he is so on the ground that he must be punished more severely than the facts warrant if convicted.

2. The offense should include all failure to furnish needed support whether accompanied by desertion or not. Neglect to provide for those who have means may be a family matter but does not concern the public; nor does desertion, if the family is not dependent on the deserter or if he continues to provide for it. Such cases, which are rare, can be excluded by making the law apply to neglect or desertion of those "in destitute or necessitous circumstances," letting the wife sue for divorce, if she desires, in case of simple desertion, but not classing the husband as a criminal unless he leaves her in want.

It is true that almost all cases of desertion involve neglect, and that the husband and father leaves in order that he may avoid the care of the family, so that it is proper to punish desertion as

accompanied by neglect; but the offense lies in the failure to furnish support, and that should not escape where desertion is not added.

Objection is sometimes made to this because there are degrees of neglect, and it does not seem so grave as desertion which, as a rule, involves total failure to provide. This is probably the reason why the laws of some states, among which are those recently passed by Illinois, Nebraska, New Jersey and Pennsylvania, apply only when desertion and neglect are combined. Such cases certainly deserve punishment, but to limit the law to them would leave without remedy many in which a man's intemperance or shiftlessness causes want and suffering, and in which he develops into a deserter when he might have been more easily reclaimed and made into a good citizen if the restraining influence of the law could have stopped his wrong-doing at its inception.

That the harm lies in the burden imposed on the community by the neglect, rather than in the desertion, is shown by the expressions of satisfaction sometimes heard when a troublesome husband, who has done little or nothing for his family, takes himself out of their way.

The law therefore should make the punishment depend simply upon neglect, as it now does in seventeen states, for that would include desertion, or upon either desertion or neglect, as in twenty others, instead of applying only to desertion combined with neglect, as in the remaining eight, which are Alabama, Arkansas, Illinois, Indian Territory, Mississippi, Missouri, Nebraska and Pennsylvania, in its latest law.

#### THE LAW SHOULD INCLUDE WIFE AND CHILDREN

3. It should include the wife as well as children under sixteen years of age. To this objection is sometimes made on the ground that the wife is often as bad as the husband, that her ill-treatment of him or her neglect of duty causes him to desert, that she may be an unfit person to care for the children, and that if there are none she should be able to look out for herself; and that therefore the law should say nothing about the wife and only require that the children be provided for.

That all this is true of some wives and mothers cannot be denied. In such instances the more complicated problem of a bad mother demands special treatment, involving the aid of a third party, and possibly the removal of the children from the influence of either parent.

But the cases where the wife is at fault were shown by the analysis of the records in Boston, which is the best standard of judgment so far obtainable and which may be properly accepted as indicating the usual proportion, to be just one-sixth of the whole number; and it does not appear wise to concur in depriving five deserving wives of the support which is due them and to ignore all their rights because one is unworthy.

The objection to having the law apply to the wife because she is able to care for herself if she has no children has apparently still less foundation. It does not follow that because a wife has no children she is not entitled to support from her husband, but if it did the relative proportion is small. As to the number of deserted wives who are childless the Boston study is not clear, but it seems to be 6 out of the 234. The thirty-seventh annual report of the Overseers of the Poor in Boston gives 153 cases of desertion, in only 5 of which there were no children; and out of 373 cases so far tabulated in the study now being made in New York city only ten were without children—in each of the three groups practically three per cent.

This may not show the total ratio of deserted wives without children to those who have them, but it does indicate that the relative number of those who require assistance is one in thirty-three, and leads one to question whether those who argue against paying attention to any wives, because women who are childless do not need it, know how much injustice they are doing to many struggling mothers in trying to protect an occasional husband whose wife can support herself without his aid.

The object in view should be the restoration of normal family relations, and this is apparently lost sight of when the disintegration begun by the father is extended by separating the wife from the children in the operation of the law. It seems better to regard the family as a unit, to preserve the natural relations of the mother to her children and to maintain the

home as far as possible. The family is "the very keystone of society." "It should be the purpose of society, as a whole, to protect the sacredness and integrity of that relation." This principle is accepted in the best charitable work, to be forsaken only when circumstances compel, and need not be enlarged upon here. In the absence of the father it is of the utmost importance that the mother's interest in the children should be encouraged and strengthened; but if the law ignores her and denies her her proper place in the family she cannot be blamed if she, too, fails to discharge a parent's duties.

In almost all the fourteen states in which the wife is not included, Arizona, California, District of Columbia, Georgia, Idaho, Kentucky, Montana, Ohio, Oklahoma, South Carolina, South Dakota, Utah, Washington and Wyoming, the laws seem to have resulted from the same consideration of the helplessness of children which inspired the laws forbidding cruelty toward them, and to have regarded them as objects for protection rather than as members of a family which is entitled to support. So far as any objection to the latter view of the matter has existed it has apparently arisen from a feeling that any assistance given the wife might lessen the response to the needs of the children. In Ohio, where the laws do not include the wife and where so much has been and is being accomplished, one who has perhaps been more influential than any other in securing the passage of these excellent laws. says: "The laws of Ohio make abundant and wise provision for the support of the wife, and payment of alimony to her by her husband, and we do not wish, in Ohio, to mix the rights and demands of dependent children with those of the mother." It was certainly prudent to leave out the wife if including her would have prevented the enactment of the laws for children; but it could hardly have been seriously expected that her right to bring a civil suit against a man who could only be compelled by a criminal proceeding, usually requiring her assistance, to support his children would be of much use to her, or that she would bring it. As a matter of fact, the experience in Ohio demonstrates the impossibility of leaving the wife out of the problem, for, as might have been expected, she is in practice cared for with her children, in spite of the fact that laws give her no rights in the suit with them.



Commenting on the negative answer to the question whether the wife is included, a man in a prominent position in the state charities, says: "The law does indirectly include the wife, as well as the children, *in case* there are children to the extent that the courts may assess an amount sufficiently large to support both. This has been done in many instances, but in case there are no children of course the law is ineffective." This suggests the question whether including the wife in the few cases would do more harm than to compel the husband without warrant of law to support her in many.

It should be noticed that the Ohio law, which devotes to the support of the children part of the earnings of a man sentenced to hard labor in the workhouse for non-support of his children, requires the payment of the money "to the mother or guardian of said child or children . . . for the support of said child or children," probably because she is the natural person to receive it; but it seems unnatural to discredit her by shutting her out from any right to share with the children in this support.

#### OTHER OPINIONS AS TO INCLUDING WIFE

Another man standing high in charitable work, in the nation as well as in Ohio, writes:

"There are many in this state who strongly advocate the passage of a law making the desertion and non-support of the wife a felony. I think it very important that the fundamental truth that the family rather than the individual is the social unit should be emphasized. All my investigation leads me to believe that the increased efficiency of the average home with the implied integrity of the family will do more to correct these evils of which we complain than anything else."

This view is confirmed by two others prominent in this work, who have had a wide experience in two of the leading cities of the country, where they are now facing the problem of desertion and non-support, and whose opinions follow:

"In my opinion a law prohibiting family desertion and non-support should apply to desertion of the wife the same as of the children. If the wife in such cases is partly to blame, the facts will

come out in the course of the trial and stand as extenuating circumstances. In my opinion, any attempt to make the law apply only to desertion and neglect of children, would narrow the benefits of the measure very greatly and largely cripple its effectiveness. In a majority of instances both wife and children are the sufferers, and any attempt to separate the interests of the two would lead to confusion and failure."

"Before replying to your letter I have consulted the Society for the Prevention of Cruelty to Children, and others, so as to compare their experience with ours. We all agree that it is an advantage to have the neglect law include wife as well as minor child. Often a wife is so young or helpless, on account of ill-health, as to need the support of the husband in almost the same degree as the child needs that of the father."

On the other hand, a bill introduced in one state last year making desertion and non-support of wife or children a felony, mainly to secure extradition, met with prompt and decided opposition from men whose long experience and worthy achievements in this kind of work in one of our largest cities entitle their opinion to the greatest respect, and who declared that the wife ought not to be included, partly because it was feared that the bill might fail to pass if not confined to children.

The measure was not urged for this reason last winter, but after full discussion a bill relating only to children was recently agreed upon and will be introduced at the coming session. There is another law in the state punishing wife deserters, but the offense is only quasi-criminal and not extraditable, and this measure leaves the state without the power to bring them back. It would seem that only the political reason of inability to secure the enactment of the bill with the wife included would justify the omission, for in this respect it goes contrary to all legislation on this subject for the last four years. Each one of the thirteen laws heretofore referred to, passed by as many different states and presumably embodying the most mature opinions, provides for the wife as well as for the children, thus showing that practical experience agrees with the principle that the family should be regarded as a unit and the laws designed to keep it so.

## WHERE THE WIFE IS THE OFFENDER

4. On the other hand, the law should make the offense include desertion or neglect by the mother of children in destitute circumstances dependent on her for support, letting the punishment apply to her as well. The cases where the wife deserts a husband who is dependent on her are so unusual that they may be neglected, but, while less frequent, desertion and neglect of children by the mother, where it does occur, should be treated in the same way as with the husband and for the same reasons.

In a larger proportion of these cases, where dependence on the mother implies previous loss or absence of the father, it may be wise to care for the children elsewhere rather than to entrust them to a mother so devoid of a mother's interest and affection; but there is no reason why the community should be burdened with any support the mother can furnish for them. How far the enforced resumption of her care for them may revive her regard for them is another question.

## THE PROCEEDING FOR NON-SUPPORT

5. The law should permit any one having knowledge of the facts to start an action against a man for non-support by making information under oath. This is usually possible in a criminal proceeding. The wife may begin the suit, but it should not have to wait for her initiative: first, because her position makes it difficult for her to take this step even when it has become necessary, and she may prefer to seek assistance from others as long as it can be obtained rather than make trouble for her husband, thus imposing on the community, while he escapes the burden; and second, because such an act on her part may still further embitter their relations and unnecessarily increase the husband's aversion to his duty, whereas he would have no ground for such a feeling toward a third party, especially if acting as a matter of business in behalf of some charitable organization.

6. It should give jurisdiction to justices of the peace or other court of lowest rank which is always in session and in which no unnecessary fees or costs must be paid. The poor cannot wait for justice, and any expense makes inroads on future wages which will be needed for food.

7. It should make the wife a competent witness and oblige her to testify if called on, for reasons already given; and, unless some valid objection is found in the other laws of the state, confidential communications as to this subject between husband and wife should not be shut out, as these often reveal the husband's true attitude and intention, which could not be so well determined in any other way.

8. The law may also declare that no other evidence shall be required to prove the marriage or that the person is the lawful father or mother of the children than would be required in a civil action; and that proof of desertion or neglect shall be *prima facie* evidence that such action is wilful.

9. It should require conviction only when the husband or parent is "without lawful excuse," or "without just cause" for such neglect, thus allowing any extenuating circumstances or any misconduct of wife or children to be fully brought out and taken into account, and shielding the husband from injustice if the fault lies wholly or partly in others; and to exclude any plea of having no property it may state that a husband or parent shall not be excused on that ground "if able to work and thereby or by other means" to furnish the needed support.

#### THE PENALTY

10. The law should prescribe as a penalty imprisonment at hard labor, with or without a sufficient fine, long enough to make the man dread the punishment more than the exertion required to support his family. Such a fine is desirable because by it anything which may happen to be due the man or in his possession may be promptly reached; but in many cases a fine cannot well be enforced.

The main deterrent is the imprisonment which, for this reason, should not be restricted to too short a term. A year is not too long as a maximum, and if the court has power to make it as short as the facts in the particular case warrant no injustice need be done any one.

This imprisonment should always and without exception be at hard labor. Simple confinement has no terrors, as a rule, and is welcomed by many. The alternative should

lie between working in prison or outside, not between work and idleness. The exertion of supporting the family will be less distasteful if the certainty of extradition and of a workhouse sentence contrast it with hard labor in prison rather than with an easy life in another city.

#### RELEASE ON BOND

11. It should provide for release from custody or for suspension of sentence on giving bond for support. As has been said, the main purpose of the law is not so much to punish the delinquent as to secure the support of his family. Confronted with a term in the workhouse, awakened, perhaps, to the conviction that his conduct has really been wrong and cannot continue, a man is usually inclined to do anything in his power to escape the penalty; and if he can induce any friends who have means to help him out by joining in his bond they are interested in having him do his duty, and his future efforts and the support of his family are made that much more certain.

The law may prescribe a fixed period for which the bond shall guarantee support, or it may fix definitely the amount of the bond for support which must be provided indefinitely, without stating just what the support shall be; or it may be left to the court to take into account the circumstances and make an order for the payment of a weekly sum for a certain period—say one year—and to determine the amount of the bond and the sureties required to ensure the carrying out of this order. Such an order has the advantage of preventing any evasion of the judgment by furnishing inadequate support, and as default on any sum renders reimprisonment immediately possible a man is less likely to default on a small payment than if there were more at stake.

It should also be possible for the court to modify the order if circumstances change, or to take a new bond if he finds it necessary. In this situation, if direct payment of the sum by the employer, as suggested at the beginning of this investigation, seems necessary to ensure the regular collection of the payments ordered by the court, this can probably be arranged for by consent, thus avoiding any difficulties which might be encountered in an attempt to compel it by law.

With a provision for appearance in court when ordered or for immediate return to prison in case of default it may be wise to permit release on a bond without any surety, where a man is wholly unable to get it, in order that he may have the opportunity to find employment and furnish support, which amounts to release on probation.

12. The law should make the sum which the court fixes payable to the wife or to the guardian of the children; or, if there are personal objections to either of these, to a trustee, or third party appointed by the court, who can be relied on to see that it is applied to the best advantage for the benefit of those for whom it is collected.

#### FINE OR FORFEITURE TO GO TO FAMILY

13. It should also provide that anything collected from a fine or on the forfeiture of a bond may be paid in whole or in part to the wife or guardian, as is now the case in Illinois, Louisiana, Maryland, Massachusetts, New York City and Virginia, or to a third party if circumstances as suggested above require. This is the proper disposition of any assets of the man or his friends so realized on in an effort to secure support of his family, instead of putting what is collected into the county or city treasury for the benefit of the poor fund, as is required in New York State. Such a provision renders it easier to give a suitable bond and to enforce it if forfeited. Any other course has an effect opposite to that desired and hurts those in whose behalf the action is brought.

14. It may also provide that whatever a man so convicted earns by the hard labor which he is compelled to perform, over and above the cost of his own board and clothing, shall be paid over each week for the support of his family. Under such an arrangement deserved convictions will be more readily secured, and this is only just. It is not for any profit he may bring the state that the man is imprisoned, but because he has failed to support those for whom he was under obligation to labor. To them as soon as he begins to labor, no matter where, should the first fruits of his labor go. The feeling that what he earns helps fulfil the broken obligations will make him work more cheerfully and effectively than if work means only punishment; it will keep him more closely in touch with those for whom he should care; the unity of the

family will still be preserved, in spite of the intervening prison walls, and it will be easier for him to resume his proper place and discharge his interrupted duties when the hour of his release comes.

In discussing, in a recent number of *Charities*, the proposal of the Children's Aid and Protective Society of the Oranges to apply to the New Jersey Legislature for the passage of such a law, Dr. Samuel J. Barrows gives instances where prisoners are profitably employed, and shows the benefits to themselves and others of having them share in the results of their labor. He says: "All prisoners, without exception, should justly be awarded some share of the products of their toil." As has been stated, such a plan is already in fairly successful operation in Toledo, Ohio, and a law for Cleveland, Ohio, pays over to the dependent wife, child or children the earnings of prisoners confined in its workhouse for violation of any municipal ordinance. To establish such a provision elsewhere may involve some changes in existing customs, but it accords so perfectly with the moral needs of the prisoner and with the material necessities of his family that it seems well worthy the effort it would require in any given case.

#### THE PROBLEM

If the solemn words by which the marriage tie is made indissoluble, "What therefore God hath joined together, let not man put asunder," mean anything they mean, "Let not *this* man, the man who takes the vows, put them asunder." Disobedience of this injunction by him, and the more so after children have increased his obligation, violates the moral law.

But aside from any moral consideration of conduct, aside from any desire to interfere in family relations, the economic necessity for every able-bodied man to support his family should never be lost sight of, nor the right of the community to regard his earning power as an asset.

The men who fail in this duty, while not always entirely to blame, are usually men who are not physically, but morally weak, men who take the line of least resistance. The law, while just to them, should be strong enough to make the line of duty the line of least resistance. The existing laws will show how far the problem of making it so has been solved.

## THE LAWS

Besides the text reference is made in each case to the following points :

*The Definition of the Offense*

*The State Law as to Extradition*

*The Competency of the Wife as a Witness*

*Desertion or Neglect as Ground for Divorce*

*The Provision for a Civil Suit for Maintenance*

But where the text has already defined the offense or stated that the wife is a competent witness the subject is not again referred to.

Where section numbers are alone given they refer to the revised or general statutes of the state mentioned elsewhere on the page, the title of which is not repeated.



## ALABAMA

### LAWS

*An Act to define and punish vagrancy.*—SEC. 1. . . . Any able-bodied person . . . who quits his house and leaves his wife and children without means of subsistence; or any person who is able to work, and who does not work but hires out his minor children and lives upon their wages; . . . is hereby declared to be a vagrant and must on conviction be fined not more than five hundred (\$500) dollars and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than six months.

SEC. 2. (Makes it the duty of the sheriff and constables of every county, and the police and town marshals or other like officers of every town and city, to give information about vagrants.)

SEC. 3. (Repeals previous law in Code of 1896, Sec. 5628.)

(Laws of 1903, No. 229, approved Sept. 22, 1903.)

*An Act to make the wife a competent witness, etc.*—SEC. 1. In all cases where the husband is charged with abandoning his family and leaving them in danger of becoming a burden to the public, the wife shall be a competent witness against her husband.

SEC. 2. (Repeals all inconsistent laws.)

(Laws of 1903, No. 9, approved Feb. 2, 1903.)

### REMARKS

The offense is not defined, but the punishment makes it a misdemeanor. (Codes of 1896, Sec. 4652.)

It is therefore extraditable under the statute, which makes other crimes a ground as well as treason or felony, and so follows U. S. laws. (Sec. 4778.)

Abandonment for two years is ground for divorce. (Sec. 1485.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## ARIZONA

### LAWS

*Abandonment and Neglect of Children.*—SEC. 240. Every parent of any child who wilfully omits, without lawful excuse, to perform any duty imposed upon him by law, to furnish necessary food, clothing, shelter or medical attendance for such child, is guilty of a misdemeanor. (Revised Statutes, 1901, Penal Code.)

SEC. 19. Except in cases where a different punishment is prescribed by this code, every offense declared to be a misdemeanor is punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding three hundred dollars, or by both. (Penal Code.)

### REMARKS

The offense is apparently extraditable under the provision as to other crime than treason or felony as ground (Penal Code, Sec. 1292); but as to this the Attorney-General does not care, at present, to express an opinion.

The wife's testimony cannot be given without her husband's consent. (Penal Code, Sec. 1111.)

Desertion for two years, or neglect for two years on the part of the husband to support the wife, he being able, is ground for divorce. (Civil Code, Sec. 3113.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## ARKANSAS

## LAWS

LXXI. *Vagrants*.—SEC. 1916. Every able-bodied person . . . who doth not betake himself to labor or some honest calling to procure a livelihood, and all able-bodied persons who . . . quit their houses and leave their wives and children without means of subsistence, shall be deemed and treated as vagrants.

SEC. 1918 . . . Any justice of the peace shall, upon information or from his own knowledge . . . bring such person before him.

SEC. 1919. If . . . it shall appear to such justice that such person is a vagrant, and the fact being ascertained by a jury, which shall, in all cases, be summoned and sworn to inquire whether the person be a vagrant or not, he shall order him to be committed to the common jail of the county for any term not less than thirty nor more than ninety days, one-half of such time to be fed on bread and water alone.

(Digest of the Statutes, 1894, Sandels & Hill.)

## REMARKS

The offense is not defined. A misdemeanor is a violation of any statute prohibiting or ordering anything to be done (Sec. 2293) ; but this is one only by implication.

The common law of England governs in the absence of any special law. (Sec. 600 and 601.)

The provision as to extradition is the same as in the U. S. laws. (Sec. 3483.)

The wife cannot testify against her husband. (Sec. 2916.)

Wilful desertion and absence for one year without reasonable cause is ground for divorce in a civil suit in the circuit court. (Sec. 2505.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## CALIFORNIA

## LAWS

*Omitting to Provide Child with Necessaries.*—SEC. 270. A parent who wilfully omits, without lawful excuse, to furnish necessary food, clothing, shelter or medical attendance for his child, is guilty of a misdemeanor. (Com'rs Amend., Mar. 16, 1901; took effect July 1, 1901.)

*Abandoning Children, etc.*—SEC. 271a. Wilful abandonment, or failure or refusal to maintain a minor child under fourteen years, is a misdemeanor. (Com'rs Amend., Mar. 16, 1901; in effect July 1, 1901.)

SEC. 19. Except in cases where a different punishment is prescribed by this code, every offense declared to be a misdemeanor is punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding five hundred dollars, or by both.  
(Penal Code of California, 1901.)

## REMARKS

The offense is extraditable under the provision as to other crime than treason or felony as ground. (Penal Code, Sec. 1548.)

The wife cannot testify against her husband without his consent. (Penal Code, Sec. 1322.)

Wilful desertion with intent to abandon, or wilful neglect to provide the common necessities of life, is ground for divorce. (Civil Code, Sec. 92.)

SEC. 136. Though judgment of divorce is denied the court may, in an action for divorce, provide for the maintenance of the wife and her children or any of them by the husband.

SEC. 137. . . . When the husband wilfully deserts the wife she may, without applying for a divorce, maintain in the superior court an action against him for permanent support and maintenance of herself or of herself and children. . . . (This may be enforced by such order or orders as court deems necessary.) (Civil Code.)

## COLORADO

## LAWS

SEC. 1412a. It shall be unlawful for any man residing in this state to wilfully neglect, fail or refuse to provide reasonable support and maintenance for his wife or minor children; and any person guilty of such neglect, failure or refusal upon the complaint of the wife, the Chairman of the Board of County Commissioners or the agent of the Humane Society, and upon due conviction thereof, shall be adjudged guilty of a misdemeanor and shall be committed to the county jail for the period of not more than sixty (60) days; unless it shall appear that owing to physical incapacity or other good cause, he is unable to furnish such support, provided that in case of conviction for the offense aforesaid, the court before which such conviction is had, may, in lieu of the penalty herein provided, accept from the person convicted a bond to the Board of County Commissioners of the county in which conviction is had, with good and sufficient surety conditioned for the support of the wife, child or children, as the case may be, for the term of six months after the date of said conviction; and the court may accept such bond at any time after such conviction and order the release of the person so convicted.

SEC. 1412b. Any justice of the peace of the county in which the offense defined in the preceding section is committed, may, upon complaint being made under oath, as now required by law, issue a warrant for the arrest of any person charged with such offense and the justice of the peace before whom such person is brought under such warrant shall hear and determine the cause, subject to the right of appeal as provided by law in cases of assault and battery.

SEC. 1412c. In all prosecutions under this act a wife shall be a competent witness against her husband with or without his consent.

(Act Approved Mar. 31, 1893; Mills' Annot. Statutes, 1904.)

CHAP. 26.—*Children*.—SEC. 411. *Unlawful to permit life or health of child to be endangered*.—It shall be unlawful for any person having the care or custody of any child, wilfully to cause

or permit the life of such child to be endangered, or the health of such child to be injured, . . . or wilfully and negligently to deprive of necessary food, clothing or shelter or in any other manner injure such child.

SEC. 411C. *Justices of the Peace have jurisdiction.*—Justices of the peace in their respective precincts shall have jurisdiction to try cases under this act.

SEC. 412. *Penalty.*—Any person who shall be convicted of violating any of the provisions of the preceding sections of this act, shall be fined not exceeding one hundred dollars, or be imprisoned in the county jail not exceeding three months, or both, in the discretion of the court; and upon conviction for a second or any subsequent offense, shall be fined not exceeding two hundred dollars, or be imprisoned in the county jail not exceeding six months. (Mills' Annot. Statutes, 1904.)

#### REMARKS

The offense under Sec. 411 is also a misdemeanor as defined by Sec. 522, note 3.

The list of crimes given in the law relating to extradition does not include misdemeanor. (Sec. 2040.)

Wilful desertion and absence for the period of one year without reasonable cause, or failure on the part of the husband for one year when in good bodily health to make reasonable provision for the family, is ground for divorce. (Sec. 1562-4, 5.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband, but the supreme court has sustained her right to bring suit for separate maintenance regardless of statute.

## CONNECTICUT

#### LAWS

SEC. 1343. *Neglect to Support Wife or Children.*—Every person who shall unlawfully neglect or refuse to support his wife or children shall be committed to the workhouse or county jail and

sentenced to hard labor for not more than sixty days, unless he shall show to the court before which the trial is had, that, owing to physical incapacity or other good cause, he is unable to furnish such support; *provided*, that in case of conviction for the offense aforesaid, the justice of the peace or other court before which such conviction is had, may, in lieu of the penalty herein provided, accept from the person convicted a bond to the treasurer of the town in which such conviction is had, or in case of conviction on appeal, to the treasurer of the town in which conviction is originally had, with good and sufficient surety, conditioned for the support of the wife, child, or children, as the case may be, for the payment of such sum towards such support as the court may find the necessities of the case and the ability of such person may require, for the term of six months from and after the date of such conviction, and such justice or court may accept such bond at any time after such conviction and order the person so convicted to be released. Justices of the peace shall have jurisdiction of prosecutions under this section. (General Statutes of Connecticut, Revision of 1902.)

#### REMARKS

The offense is not defined, and the statutes nowhere define felony or misdemeanor.

The statute as to extradition is not definite as to the crimes for which it may be demanded. (Sec. 1566.)

The statutes do not provide for the wife's testimony, and she cannot be compelled to give it, but it is the opinion of competent authority that it would be accepted if offered.

Desertion and total neglect for three years is ground for divorce. (Sec. 4551.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## DELAWARE

## LAWS

CHAP. 229, VOL. 18. *An Act for the Prevention of Cruelty to Children and other Purposes.*—SEC. 1. Any husband who wilfully neglects to provide for the support and maintenance of his wife or his minor children dependent upon him for support, or shall wilfully desert the same, or any of them, shall be guilty of a misdemeanor, and upon conviction thereof before any court of record or justice of the peace, shall be fined not less than ten dollars nor more than one hundred dollars for each and every offense. (Passed Apr. 11, 1887.)

CHAP. 230, VOL. 18. *An Act for the Benefit of Married Women and Minor Children.* SEC. 1. If any husband or father, being within the limits of the State of Delaware, shall separate himself from his wife or from his children, or from wife and children, without reasonable cause, or shall neglect to maintain his wife or children, it shall be lawful for any justice of the peace of this state, upon information made before him under oath or affirmation by his wife or children, or either of them, or by any other person, to issue his warrant to the sheriff or to any constable of the county, for the arrest of the person against whom the information shall be made as aforesaid, and bind him over with one or more sufficient sureties in a penal sum to be determined and fixed by the justice, not less, however, than the sum of five hundred dollars, to appear at the next session of the Court of General Sessions of the Peace and Jail Delivery, in and for the county in which such proceedings are had, there to answer the said charge of desertion, and in default of giving such surety to commit him to the jail of the county.

SEC. 2. The information, proceedings thereon and warrant shall be returned to the next term of the Court of General Sessions of the Peace in said county where such proceedings are had, where it shall be lawful for said court after hearing to order the person against whom complaint has been made, being of sufficient ability, to pay such sum as said court shall think reasonable and



proper for the comfortable support and maintenance of the said wife or children, or both, not exceeding one hundred dollars per month; and shall also require him to give security by one or more securities to the State of Delaware in such sum as to the said court may seem proper for the compliance therewith. Upon failure to comply with the order of the court in the premises, he shall be committed to the county jail, there to remain until such order is complied with or he be discharged by the order of the court. Any wife so deserted shall be a competent witness in any proceedings under this act to prove the fact of desertion or neglect to maintain her or any minor children under the age of ten years.

SEC. 3.. (Gives authority about the arrest.) (Passed April 13, 1887.) (Revised Code of Delaware, 1903.)

#### REMARKS

The offense under Chap. 229, Vol. 18, is extraditable under the law which provides that other crime than treason or felony is ground. (Chap. 223, Vol. 17.)

Desertion for three years, or wilful neglect for three years on the part of the husband to provide the wife necessities of life suitable to her condition is ground for divorce. (Chap. 75, Sec. 1.)

There is no provision for a civil suit by the wife, other than the proceeding in Chap. 230, Vol. 18, for maintenance in case of desertion or neglect to support on the part of the husband.

### DISTRICT OF COLUMBIA

#### LAWS

*An Act to enlarge the powers of the courts of the District of Columbia in cases involving delinquent children, and for other purposes.*

SEC. 4. That any person within the District of Columbia, of sufficient financial ability, who shall refuse or neglect to provide for any child under the age of fourteen years, of which he or she

shall be the parent or guardian, such food, clothing, and shelter as will prevent the suffering and secure the safety of such child, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to punishment by a fine of not more than one hundred dollars, or by imprisonment in the workhouse of the District of Columbia for not more than three months, or both such fine and imprisonment. (Public Act No. 152, Approved Mar. 3, 1901.)

SEC. 980. *Maintenance of Wife*.—Whenever any husband shall fail or refuse to maintain his wife and minor children, if any, although able to do so, the court, on application of the wife, may decree that he shall pay her, periodically, such sums as would be allowed to her as permanent alimony in case of divorce for the maintenance of herself and the minor children committed to her care by the court, and the payment thereof may be enforced in the same manner as directed in regard to such permanent alimony. (That is, by attachment and imprisonment for disobedience to the order. Sec. 975 and 976.) (Code of 1901.)

#### REMARKS

The law as to extradition follows that of the U. S., which makes the offense extraditable. (Sec. 930, Code of 1901.)

The wife is a competent witness, but cannot be compelled to testify against her husband, or for him. (Sec. 1068.)

Cruelty or desertion is ground for divorce from bed and board. (Sec. 966.)

The law as to civil suit is given above.

## FLORIDA

#### LAWS

SEC. 1. From and after the passage of this act any man who shall in this state desert his wife and children, or his wife where there are no children or child, or who shall withhold from them

the means of support, without there existing at the time of such desertion such cause or causes as are recognized as ground or grounds for divorce in this state, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the county jail not exceeding six months, or by fine not exceeding five hundred dollars (\$500), or both such fine and imprisonment at the discretion of the judge trying the cause. (Chap. 4553, Laws of 1897, No. 39, approved June 5, 1897.)

SEC. 1. Whoever . . . wilfully, unlawfully or negligently deprives of necessary food, clothing or shelter, any person under the age of sixteen years; and whoever, having control of, or being the parent or guardian of any child or children under the age of sixteen years, wilfully abandons such child or children, . . . or wilfully or unlawfully and negligently deprives of necessary food, clothing or shelter such child or children, shall on conviction, be fined not less than five hundred dollars or imprisoned not more than six months, or both. (Chap. 4971, Laws of 1901, No. 87, approved May 28, 1901.)

#### REMARKS

The offense is extraditable under the law, which follows that of the U. S. (Sec. 3002, Revised Statutes of 1892.)

The wife is a competent witness. (Sec. 2863 and Chap. 4029, Appendix.)

Wilful, continued and obstinate desertion for one year is ground for divorce. (Sec. 1480-7.)

If any man having the ability to contribute to the maintenance of his wife and minor children shall fail to do so the wife, living with him or apart from him, may obtain such maintenance by order of the chancery court. (Sec. 1486.)

## GEORGIA

## LAWS

SEC. 114. If any father shall wilfully and voluntarily abandon his child, leaving it in a dependent and destitute condition, he shall be guilty of a misdemeanor. The wife shall be a competent witness in such cases to testify for or against her husband.

SEC. 708. Whoever shall torture, torment, deprive of necessary sustenance, mutilate, cruelly, unreasonably and maliciously beat or ill-treat any child, or cause any of said acts to be done, shall be guilty of a misdemeanor.

SEC. 1039. Every crime declared to be a misdemeanor is punishable by a fine not to exceed one thousand dollars, imprisonment not to exceed six months, to work in the chain gang on the public works, or on such other works as the county authorities may employ the chain gang, not to exceed twelve months, and any one or more of these punishments may be ordered in the discretion of the judge. (Code of the State of Georgia, 1895, Vol. III.)

## REMARKS

The offense is extraditable under the law, which follows that of the U. S. (Sec. 1271, above Code.)

Wilful and continued desertion for three years is ground for divorce. (Civil Code of 1895, Sec. 2426.)

In case of separation the wife may sue for the support of herself and children without divorce; and the court may make an order for support and enforce it against the husband. (Civil Code of 1895, Sec. 2467.)

## IDAHO

## LAWS

SEC. 6782. *Omitting to provide child with necessities.*—Every parent of any child who wilfully omits, without lawful excuse, to furnish necessary food, clothing, shelter or medical attendance for such child is guilty of a misdemeanor.

SEC. 6313. Except in cases where a different punishment is prescribed by this Code, every offense declared to be a misdemeanor, is punishable by imprisonment in a county jail not exceeding six months, or by fine not exceeding three hundred dollars, or by both. (Revised Statutes of Idaho, 1887.)

#### REMARKS

The offense is extraditable under the law, which follows the U. S. Constitution in making other crime a ground as well as treason or felony. (Sec. 8416.)

The wife is not a competent witness in a criminal action against her husband, without his consent. (Sec. 8142.)

Wilful desertion, or wilful neglect of the husband to provide the wife with the common necessities of life, he having the ability to do so, or failure to do so by reason of idleness, profligacy or dissipation, is ground for divorce. (Sec. 2457.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## ILLINOIS

#### LAWS

*An Act making it a misdemeanor to abandon or wilfully neglect to provide for the support and maintenance, by any person, of his wife, or of his or her minor children in destitute or necessitous circumstances.*

SEC. 1. Be it enacted by the people of the State of Illinois, represented in the General Assembly: That every person who shall, without good cause, abandon his wife and neglect and refuse to maintain and provide for her, or who shall abandon his or her

minor child or children under the age of twelve years, in destitute and necessitous circumstances, and wilfully neglect or refuse to maintain and provide for such child or children, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine of not less than one hundred dollars or more than five hundred dollars, or by imprisonment in the county jail, house of correction, or workhouse not less than one month or more than twelve months, or by both such fine and imprisonment; and should a fine be imposed it may be directed by the court to be paid in whole or in part to the wife, or to the guardian or custodian of the minor child or children: Provided, that before the trial, (with the consent of the defendant) or after conviction, instead of imposing the punishment hereinbefore provided, or in addition thereto, the court in its discretion, having regarded the circumstances and financial ability of the defendant, shall have the power to pass an order, which shall be subject to change by it from time to time, as the circumstances may require, directing the defendant to pay a certain sum weekly for one year to the wife, guardian or custodian of the minor child or children and to release the defendant from the custody, on probation, for the space of one year upon his or her entering into a recognizance, with or without sureties, in such sums as the court may direct. The conditions of the recognizance shall be such that, if the defendant shall make his or her personal appearance in court whenever ordered to do so within a year, and shall further comply with the terms of the order, then the recognizance will be void, otherwise of full force and effect. If the court be satisfied by information and due proof, under oath, that at any time during the year the defendant has violated the terms of such order, it may forthwith proceed with the trial of the defendant under the original indictment, or sentence him or her under the original conviction, as the case may be. In a case of forfeiture of a recognizance and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid in whole or in part to the wife, guardian or custodian of the minor child or children.

SEC. 2. No other evidence shall be required to prove marriage of such husband and wife, or that such person is the lawful father or mother of such child or children, than is or shall be required

to prove such facts in a civil action, and such wife shall be a competent witness to testify in any case brought under this act, and to any and all matters relevant thereto, including the fact of such marriage and the parentage of such child or children.

SEC. 3. All acts and portions thereof in conflict herewith, are hereby repealed. Approved May 13, 1903.  
(Hurd's Revised Statutes, 1903, Chap. 68, Sec. 24, 25 and 26.)

#### REMARKS

The offense is extraditable under the law, which follows the U. S. Constitution and act of Congress as to ground for extradition. (Chap. 60, Sec. 1.)

Wilful desertion without reasonable cause, for two years, is ground for divorce. (Chap. 40, Sec. 1.)

A wife living apart from her husband without her fault may bring suit for maintenance in circuit court. (Chap. 68, Sec. 22.)

## INDIANA

#### LAWS

SEC. 2133. *Deserting wife or child.*— . . . Whoever, without cause, deserts his wife, child or children, and leaves such wife or her child or children a charge upon any of the counties of this state, or without provision for comfortable support, shall be fined not more than one hundred dollars nor less than ten dollars.

SEC. 6619. *Children, care and custody, etc.*—Any person having the care, custody or control of any minor child who shall wilfully abandon or neglect the same shall be guilty of a misdemeanor and, upon conviction thereof by any justice of the peace, mayor, police judge or criminal court, shall be fined not less than five dollars nor more than fifty dollars for each offense, to which may be added imprisonment not exceeding thirty days.

SEC. 5132. *When wife may sue for support.*—A married woman may obtain provision for the support of herself and the infant children of herself and husband, in her custody, in the following cases:

1. Where the husband shall have deserted his wife, or his wife and children, without cause, not leaving her or them sufficient provision for her or their support. . . .

SEC. 5133. Such action shall be commenced by filing a complaint . . . . and causing process to issue . . . . as in ordinary civil actions. (It must state all circumstances and describe husband's property.)

SEC. 5134. . . . The court shall hear and determine said cause; and if the facts stated in the complaint are found to be true, the court may make such orders and allowances, in the nature of alimony, out of the husband's estate as may seem just and equitable and for the best interests of such wife and children. . . .

(Horner's Annotated Statutes, 1901.)

#### REMARKS

The offense in Sec. 2133 is not defined, but Sec. 1573 would make it a misdemeanor.

The offense is extraditable under the statute, which follows the U. S. laws as to grounds of extradition. (Sec. 1599.)

The wife is a competent witness. (Sec. 497—Sixth (2); Sec. 1798—First.)

Abandonment for two years, or neglect for two years to provide the common necessities of life, is ground for divorce. (Sec. 1032.)

The law as to civil suit is given above.



## INDIAN TERRITORY

## LAWS

XLVI. *Vagrants*.—SEC. 1214. Every able-bodied person . . . who doth not betake himself to labor or some honest calling to procure a livelihood, and all able-bodied persons who are found begging, and who quit their houses and leave their wives and children without the means of subsistence, shall be deemed and treated as vagrants.

SEC. 1216. . . . Any justice of the peace of the county shall, upon information or from his own knowledge . . . bring such person before him.

SEC. 1217. If, upon due examination, it shall appear to such justice that such person is a vagrant, and the fact being ascertained by a jury, which shall, in all cases, be summoned and sworn to inquire whether the person be a vagrant or not, he shall order him to be committed to the common jail of the county for any term not less than thirty nor more than ninety days, one-half of such time to be fed on bread and water alone. (Adopted as law of Indian Territory from Arkansas Statutes, Mar. 1, 1895.)

(Annotated Statutes, 1899.)

## REMARKS

The offense is not defined.

The provision as to extradition is the same as in U. S. laws. (Sec. 2319.)

Nothing is said about the wife's testimony in criminal cases, but she cannot testify against her husband in civil actions. (Sec. 1974.)

Wilful desertion and absence for one year without reasonable cause is ground for divorce. (Sec. 1844:)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## IOWA

## LAWS

The laws of Iowa contain nothing making it an offense for a man not to support his family or parents their children. Even the vagrancy laws do not refer to non-support of family. (Sec. 5119, Annotated Code of 1897.)

## REMARKS

Wilful desertion and absence for two years without reasonable cause, is ground for divorce. (Sec. 3174 (2).)

Whenever a father or mother abandons children, husband his wife, or wife her husband, leaving them a public charge or likely to become such, the trustees of the township, upon application to them, may make complaint to the clerk of the district court or judge thereof in the county in which such abandoned person resides, or in which any property of such father, mother, husband or wife is situated, for an order to seize such property, and, upon proof of the facts alleged, the clerk or judge shall issue an order, directed to the sheriff of the county, to take and hold possession of said property, subject to the further orders of the court. . . . Should the party against whom the order issued thereafter resume his or her support of the person abandoned, or give bond with sureties, to be by the clerk approved, conditioned that such person shall not become chargeable to the county, the order shall be by the clerk discharged and the property remaining restored. (Sec. 2220.)

There is no provision for a civil suit directly by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## KANSAS

## LAWS

SEC. 2281. *Vagrancy.* . . . Any able-bodied married man who shall neglect or refuse to provide for the support of his family, shall be deemed a vagrant, and upon conviction thereof may be fined in any sum not exceeding five hundred dollars or be imprisoned in the county jail not exceeding one year.

SEC. 4205-24. *Ill-treatment of children.*—Any person over sixteen years of age who, having the care, custody, control or charge of a child, being a boy under the age of fourteen years, or being a girl under the age of sixteen years, who wilfully ill-treats, neglects, abandons or exposes such child, or causes or procures such child to be ill-treated, neglected, abandoned, or exposed, in a manner likely to cause such child unnecessary suffering or serious injury to its health, shall be guilty of an offense under this act, and on conviction thereof by a court of summary jurisdiction, shall be liable, at the discretion of the court, to a fine not exceeding one hundred dollars, or, in addition thereto, to imprisonment to a term not exceeding three months. (Laws, 1901, Chap. 106; An Act to provide for dependent children.)

(General Statutes of Kansas, 1901—Dassler.)

## REMARKS

The offense is not defined under either Sec. 2281 or Sec. 4205-24, but the penalty would make each a misdemeanor under Sec. 5445.

The offense is extraditable under the statute, which follows U. S. laws as to ground of extradition. (Sec. 3179.)

The wife is a competent witness. (Sec. 5657.)

Abandonment for one year is ground for divorce. (Sec. 5132.)

The wife may get alimony in the district court, without divorce, for any of the causes for which divorce may be granted, or may sue directly for support in some cases. (Sec. 5144.)

## KENTUCKY

### LAWS

SEC. 328. *Failure of parent to support minor child.*—Whoever wilfully and unreasonably neglects to provide for the support of his or her minor child who is actually or apparently under the age of fourteen years, shall be punished by fine not exceeding twenty dollars, or by imprisonment in the county jail or workhouse, in counties having a workhouse, not exceeding six months.

SEC. 330. *Powers and duties of peace officers.*—The police officer and constable must, and any agent or officer of an incorporated society for the prevention of cruelty to children or animals or charity organization may, upon proper affidavit and warrant, arrest and bring before the court or magistrate having jurisdiction, any person offending against any of the provisions of this act. . . . (Act of Feb. 24, 1894.) (Kentucky Statutes, 1903—Carroll.)

### REMARKS

The offense under Sec. 328 is not defined, but the penalty would make it a misdemeanor under Sec. 1127.

The offense is extraditable by the statute, which follows U. S. laws as to ground for extradition. (Sec. 1926.)

The statutes make no provision for admitting the testimony of the wife.

Abandonment for one year is ground for divorce. (Sec. 2117—1.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## LOUISIANA

## LAWS

*An Act, Making it a misdemeanor to desert or wilfully neglect to provide for the support and maintenance by any person of his wife or minor children in destitute or necessitous circumstances, and to provide a penalty therefor.*

SEC. 1. Be it enacted by the General Assembly, That any person who shall, without just cause, desert or wilfully neglect to provide for the support of his wife or minor children in destitute or necessitous circumstances shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the parish prison not exceeding one year, or both, in the discretion of the court; and should a fine be imposed, it may be directed by the court to be paid in whole or in part to the wife, or to the tutor, or custodian, of the minor. Provided that before the trial (with the consent of the defendant,) or after conviction, instead of imposing the punishment hereinbefore provided, or in addition thereto, the court in its discretion having regard to the circumstances and financial ability of the defendant, shall have the power to pass an order, which shall be subject to change by it from time to time as the circumstances may require, directing the defendant to pay a certain sum weekly for the space of one year to the wife, and to release the defendant from custody on probation for the space of one year on his entering into a recognizance, with or without sureties in such sum as the court shall direct. The condition of the recognizance shall be such that if the defendant shall make his personal appearance at court whenever ordered to do so within the year, and shall further comply with the terms of the order or of any subsequent modification thereof, then the recognizance shall be void, otherwise of full force and effect.

If the court be satisfied by information and due proof under oath, at any time during the year, that the defendant has violated the terms of said order, it may forthwith proceed to the trial of said defendant under the original indictment, or sentence him under the original conviction, as the case may be. In the case of forfeiture of a recognizance, and enforcement thereof by exe-

cution, the sum recovered may in the discretion of the court be paid in whole or in part to the wife, or to the tutor, or custodian of the minor. (Act No. 34, of June 19, 1902; Const. and Revised Laws, 1904—S. Wolff. R. Laws, p. 335.)

#### REMARKS

The offense is extraditable under the statute, which follows U. S. laws in making other crime as well as treason or felony ground for extradition. (Sec. 1038.)

The wife is not a competent witness in a criminal proceeding against the husband. (Act No. 185, of 1902.)

Abandonment for five years is ground for divorce. (Sec. 1190.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

### MAINE

#### LAWS

##### CHAP. 61. *Abused and neglected children.*

SEC. 44. Any parent, guardian or other person, having the care and custody of any child, who cruelly treats such child by abuse, neglect, overwork or extreme punishment, shall be punished by a fine not exceeding one hundred dollars or by imprisonment not exceeding one year.

SEC. 45. When complaint in writing, signed by two or more citizens of any town alleging that any child therein is wilfully neglected or cruelly treated by its parents, or by the wilful fault of such parents is not provided with suitable food, clothing or privileges of education, . . . is made to the municipal officers of such town, such officers shall give notice of a time and place of hearing by serving such notice, with a copy of such petition, upon

such parents, at least two days before such hearing, or by publishing a copy of such petition and notice in some newspaper in the county where such child resides, at least seven days before such hearing. Said officers shall at the time and place mentioned in said notice, give a hearing to the parties and their witnesses, and if they find that the allegations in the petition are true, and that it is just and expedient to make further provision for the care, education and support of such child, they shall make a record thereof, signed by them or a majority of them, which shall be recorded by the clerk of said town in a suitable book.

(SEC. 46 provides that on making such record such officers or a person appointed by them shall make complaint, under oath, to a judge of a court or to any trial justice, stating the facts. The court orders the child brought in, and if he finds that the statement is true he may order the child put into an institution or with some private person.

SEC. 47, 48 and 49 contain further provision about this.)

SEC. 50. Any town incurring expenses under the five preceding sections, through the fault of parents who are able properly to support and educate their children, but wrongfully neglect and refuse to do so, may recover of them, in an action of debt, the amount so expended.

CHAP. 27. *Paupers, etc.*—SEC. 17. The father, mother, grandfather, grandmother, children and grandchildren, by consanguinity, living within the state and of sufficient ability, shall support persons chargeable, in proportion to their respective ability.

(SEC. 18 provides that when expense is incurred by town or kindred complaint may be made to the supreme judicial court of the county and payment of amount fixed enforced by warrant of distress.)

CHAP. 142. *Houses of Correction.*—SEC. 6. A municipal or police court, or trial justice in his county, on complaint under oath may commit to jail or to the house of correction in the town where the person belongs or is found, for a term not exceeding ninety days, all rogues, vagabonds, . . . persons . . . neglecting their callings or employments, mispending what they earn and not providing for the support of themselves and their families. . . (Act of 1903.) (Revised Statutes of 1903.)

## REMARKS

The offense is not defined, but by Chap. 132, Sec. 10 must be a misdemeanor under either Chap. 61, Sec. 44, or Chap. 142, Sec. 6.

The offense is extraditable under the statute, which follows the U. S. Constitution as to ground for extradition. (Chap. 139, Sec. 9.)

The wife is a competent witness. (Chap. 139, Sec. 19.)

Utter desertion continued for three years next prior to the action, or gross, wanton or cruel neglect to provide, is ground for divorce. (Chap. 62, Sec. 2.)

When a man lives apart from his wife or minor child and does not provide, being of sufficient ability, the wife or guardian may sue for support, and the court may order the payment of certain sums, enforceable by execution. (Chap. 63, Sec. 7.)

## MARYLAND

## LAWS

SEC. 47a. Any person, who shall without just cause desert or wilfully neglect to provide for the support and maintenance of his wife or minor child, shall be deemed guilty of a misdemeanor, and upon conviction in any court of the state having criminal jurisdiction shall be punished by a fine not exceeding one hundred dollars, or imprisonment in the Maryland House of Correction for not more than one year, or both, in the discretion of the court. The fine may be directed by the court to be paid in whole or in part to the wife. Provided that before the trial with the consent of the defendant, or after conviction instead of imposing the punishment hereinbefore provided, or in addition thereto, the court in its discretion, having regard to the circumstances and financial ability of the defendant, shall have the power to pass an order, which shall be subject to change by it from time to time as the circumstances may require, directing the defendant to pay a certain sum



weekly for the space of one year to the wife, and to release the defendant from custody on probation for the space of one year upon his entering into a recognizance in such sum as the court shall direct, with or without sureties. The condition of the recognizance shall be such that if the defendant shall make his personal appearance at the court whenever ordered so to do within the year, and shall further comply with the terms of the order or of any subsequent modification thereof then the recognizance shall be void, otherwise of full force and effect. If the court be satisfied by information and due proof under oath, at any time during the year, that the defendant has violated the terms of such order, it may forthwith proceed to the trial of the defendant under the original indictment, or sentence him under the original conviction, as the case may be. In the case of forfeiture of a recognizance and enforcement thereof by execution the sum recovered may in the discretion of the court be paid in whole or in part to the wife.

SEC. 47b. If the defendant shall be arrested and brought before a justice of the peace, upon the charge of violating Section 47a of this article such justice shall hear the case and if he be of the opinion that sufficient facts are proved to substantiate the charge, he shall commit or bail the defendant pending the action of the grand jury, as in other cases, or with the consent of the defendant, may in place of such commitment or bail pass an order and take a recognizance as provided in Section 47a. If the defendant shall violate the condition of the recognizance, it may be forfeited and the justice shall note the forfeiture on the recognizance and deliver it to the clerk of the court having original jurisdiction of the misdemeanor described in Section 47a. The said forfeited recognizance shall then become a record of said court and shall have the same effect, and may be enforced in the same manner as if it had been taken and forfeited by the court. If the magistrate be satisfied by information and due proof under oath at any time during the year that the defendant has violated the terms of the order he shall forthwith commit or bail the defendant for the action of the grand jury as in other cases. (Acts of 1904, approved Mar. 9, 1904.)

## REMARKS

The statutes contain no reference to extradition except as to fugitive felons in Art. 27, Sec. 189; but the offense is extraditable under the U. S. Constitution and laws.

The wife is a competent witness. (Art. 35, Sec. 4, Code of Public Gen. Laws, 1903.)

Deliberate and final abandonment continued for three years is ground for divorce. (Art. 16, Sec. 36.)

SEC. 14. The courts of equity of this state, shall and may hear and determine all causes for alimony, in as full and ample manner as such causes could be heard and determined by the laws of England in the ecclesiastical courts there.

SEC. 15. In cases where a divorce is decreed, alimony may be awarded. (Art. 16.)

There is no other provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## MASSACHUSETTS

## LAWS

CHAP. 212, SEC. 45. Whoever unreasonably neglects to provide for the support of his wife or minor child shall be punished by a fine of not more than twenty dollars or by imprisonment for not more than six months. All fines imposed under the provisions of this section may, in the discretion of the court, be paid in whole or in part to the city, town, corporation, society or person actually supporting such wife or minor child at the time of making the complaint. Proof of neglect to provide for the support of a wife or minor child as aforesaid shall be prima facie evidence that such neglect is unreasonable.

CHAP. 153, SEC. 33. If a husband fails, without just cause, to provide suitable support for his wife, or deserts her, or if the wife, for justifiable cause, is actually living apart from her husband, the probate court may, upon her petition or, if she is insane, upon the petition of her guardian or next friend, prohibit the husband from imposing any restraint on her personal liberty during such time as the court shall by its order direct or until the further order of the court thereon; and, upon the application of the husband or wife or of her guardian, the court may make further orders relative to the support of the wife and the care, custody and maintenance of the minor children of the parties, may determine with which of their parents the children or any of them shall remain and may, from time to time, upon a similar application, revise and alter such order or make a new order or decree, as the circumstances of the parents or the benefit of the children may require.

CHAP. 81, SEC. 10. The kindred of such poor persons, in the line or degree of father or grandfather, mother or grandmother, children or grandchildren, by consanguinity, living in this commonwealth, and of sufficient ability, shall be bound to support such poor persons in proportion to their respective ability. The mother shall be under the same legal obligation to support her pauper children as the father, but she shall not be liable to criminal prosecution for the enforcement of such obligation.

(Revised Laws of Massachusetts, 1902.)

#### REMARKS

The offense is not defined, but is a misdemeanor by Chap. 215, Sec. 1.

The offense is extraditable under the statute, which follows the U. S. Constitution in making other crime as well as treason or felony ground for extradition. (Chap. 217, Sec. 11.)

The wife is a competent but not a compellable witness. (Chap. 175, Sec. 20.)

Utter desertion continued for three consecutive years prior to bringing the action, or gross, wanton or cruel neglect on the part of the husband to provide suitable maintenance for the wife, is ground for divorce. (Chap. 152, Sec. 1.)

As to civil suit for maintenance, see laws, above.

## MICHIGAN

### LAWS

SEC. 5923. All persons who run away, or threaten to run away, and leave their wives or children a burden on the public; all persons who, being of sufficient ability, refuse or neglect to support their families, or who leave their wives or children a burden on the public, . . . shall be deemed disorderly persons. . .

SEC. 5924. Any person complained of as being a disorderly person, and who shall be convicted, or who shall plead guilty, shall be punished by a fine of fifty dollars and costs of prosecution, or by imprisonment in the county jail or the Detroit House of Correction not exceeding thirty days, or he may be required to enter into a recognizance with sufficient sureties for his good behavior for the term of three months. Any person who shall be convicted a second time of being a disorderly person, the offense being charged as a second offense, shall be punished by a fine not exceeding one hundred dollars and costs of prosecution, or by imprisonment in the county jail, or in the Detroit House of Correction, not less than thirty days nor more than three months, or by such imprisonment and by a fine not exceeding one hundred dollars and costs. And for a third and all subsequent convictions, the offense being charged as a third or subsequent conviction, the punishment shall be by imprisonment in the Detroit House of Correction, or in the state House of Correction and Reformatory at Ionia, or . . . Marquette not less than six months, nor more than two years, or by such imprisonment and by a fine not exceeding one hundred dollars and costs of prosecution.

(SEC. 5925 provides for commitment in case costs are not paid

or sureties are not given or are not good.) (Act 264, of 1889, approved July 5, 1889, entitled An Act Relative to Disorderly Persons, etc.)

SEC. 11,507. Any parent or guardian . . . who wilfully, unlawfully or negligently deprives of necessary food, clothing or shelter, or who wilfully abandons a child under sixteen years of age . . . shall upon conviction be deemed guilty of a felony, and punished by imprisonment in the county jail or in the state prison or in the state House of Correction at Ionia at hard labor for not more than five years nor less than three months: Provided, however, if, after such conviction and before sentence, in case the child has not been deformed or maimed, he or she shall appear before the clerk of the court in which said conviction shall have taken place, and with good and sufficient surety, to be approved by said clerk, enter into bond to the people of the State of Michigan in the penal sum of one thousand dollars conditioned that he or she will furnish such child or children with necessary and proper home, care, food, shelter, protection and clothing, the said court may suspend sentence therein. . . .

(Approved May 31, 1893; amendment approved May 29, 1897; entitled An Act to Provide a Penalty for Cruelty to Children.)  
(Compiled Laws of 1897.)

*An Act to prevent the desertion and abandonment of wife or children by persons charged by law with the maintenance thereof; to make such abandonment and desertion a felony and to prescribe the punishment therefor.*

The People of the State of Michigan enact:

SEC. 1. That any person who deserts and abandons his wife or deserts and abandons his minor children under fifteen years of age and without providing necessary and proper shelter, food, care and clothing for them and leaves them or any of them a burden upon the public, and leaves the State of Michigan, shall upon conviction be deemed guilty of a felony and punished by imprisonment in the state prison for not more than three years nor less than one year; or by imprisonment in the county jail not more than one year and not less than three months: Provided,

however, if at any time before sentence he shall enter into bond to the people of the State of Michigan, in such penal sum and with such surety or sureties as the court may fix, conditioned that he will furnish his wife and children with necessary and proper shelter, food, care and clothing, then the court may suspend sentence therein: Provided, That upon failure of such person to comply with said undertaking he may be ordered to appear before the court and show cause why sentence should not be imposed, whereupon the court may pass sentence, or for good cause shown may modify the order and take a new undertaking and further suspend sentence as may be just and proper.

SEC. 2. In the hearing of all complaints under this act the wife may testify against the husband without his consent. (Act No. 39, Laws of 1903, approved Apr. 16, 1903.)

#### REMARKS

The offense is extraditable, being clearly included in the statute as well as in the U. S. laws. (Sec. 11,992-7, Compiled Laws of 1897.)

The wife may testify as to the husband's neglect to furnish her or her children with suitable support. (Sec. 10,213—102.)

Desertion for two years, or gross, wanton and cruel neglect on the part of the husband to provide suitable maintenance, being able, is ground for divorce. (Sec. 8621.)

In case of desertion or neglect to support, or the existence of any other cause which would entitle the wife to a decree of divorce or separation, the circuit court in chancery of any county in the state in which the husband or wife shall reside shall, on petition of the wife, allot her such a portion of her husband's real and personal estate, or decree to her such a portion of his earnings, income or revenue as shall seem to the court to be proper, and may enforce its orders by execution. In case the husband leaves the state the court may publish an order for his appearance and may sell the property. (Sec. 8686, 8687 and 8688.)

## MINNESOTA

## LAWS

*An Act to prevent the abandonment and neglect of wife or children, etc.*

SEC. 1. On complaint being made to any justice of the peace or judge of any municipal court by the wife of any person accusing such person of wilfully omitting without lawful excuse to furnish proper food, clothing and shelter, or suitable care in case of sickness, to his wife or minor child under fifteen years of age, the justice or judge shall take such complaint in writing, under the oath of such wife, and shall thereupon issue his warrant . . . to bring such accused person before the justice or judge to answer such complaint.

SEC. 2. The justice or judge shall enter an action on his docket. . . . On the return of the warrant with the accused the justice or judge shall proceed to examine under it the complainant and such other witnesses as may be produced. . . .

SEC. 3. If such accused person pays or secures to be paid to the wife complaining such sum of money or other property as the court shall order or as she may agree to receive in full satisfaction, of which order or agreement the justice or judge shall make memorandum upon his docket, and shall also pay all expenses and the costs of prosecution and shall also give bond to the State of Minnesota in such sum as the justice or judge shall fix, with sufficient sureties, to be approved by the justice or judge, conditioned that he will furnish such child and wife with the necessary and proper home, food, care and clothing, then the justice or judge shall discharge such accused person.

SEC. 4. In case any person accused as aforesaid does not comply with the provisions of the preceding sections . . . the justice or judge shall require such person to enter into recognizance with one or more sufficient sureties . . . in a sum of not less than \$100 nor more than \$500, to appear at the next term of the district court . . . ; and on his refusal or neglect to give such recognizance the justice or judge shall commit him to jail of the county, there to be held to answer such complaint at the next term of such court. . . .

SEC. 5. If at any time there is any sufficient reason therefor, the court may order a continuance of the cause. . . .

SEC. 6. Upon the trial of the action the issue shall be whether the accused is guilty or not; if he is found guilty or if he admits the truth of the accusation he shall be adjudged to pay such wife or minor child such sums of money and in such manner and at such times as the court may fix and direct.

SEC. 7. And if such person shall disobey such order or directions, the court may sequester his personal estate and the rents and profits of said real estate to be applied according to the terms of such order or direction. Or the court, whenever it shall find the fact to be that such person has an income or earnings from any source sufficient to enable him to pay the sum or sums specified in such order or obey such directions and fails so to do, may punish such person for contempt and the court, if it shall have reason to believe that said person can earn sufficient to enable him to pay such sums or obey such order, may cause such person to be confined in the county jail until such person complies with the direction and order of the court, or in the discretion of the court until the said person shall give bond, with good and sufficient sureties, in an amount to be prescribed by the court, conditioned to pay such amount and to comply with the orders and directions of the court, which bonds shall be approved by the court.

SEC. 8. In all cases brought under the provisions of this act the wife shall be a competent witness against her husband without his consent, and may be subpoenaed and compelled to testify against him.

SEC. 9. That Chapter 316, General Laws of the State of Minnesota for the year 1901, be and the same is hereby repealed.

SEC. 10. This act shall take effect and be in force from and after its passage. (Laws of 1903, Chap. 222; approved Apr. 14, 1903.)

*An Act to amend . . . Sec. 5662 . . . . A husband cannot be examined for or against his wife without her consent; nor a wife for or against her husband without his consent; . . . but this exception does not apply to a civil action or proceeding by*



one against the other, nor to an action or proceeding for abandonment and neglect of the wife or children by the husband. (Laws of 1903, Chap. 227; approved Apr. 14, 1903.)

#### REMARKS

This law, which is the only one on the subject, does not make desertion or neglect of wife or children a criminal offense.

Extradition therefore cannot be required, although the statute follows the U. S. laws in making other crime as well as treason or felony ground for it. (Sec. 7085, Statutes of Minnesota, 1894.)

Wilful desertion for three years is ground for divorce. (Sec. 4790.)

The court may order the husband to support his wife in a suit for separation, even if a decree of separation is not granted. (Sec. 4820.)

There is no other provision for a civil suit by the wife for maintenance in case of abandonment or neglect to support on the part of the husband.

### MISSISSIPPI

#### LAWS

*An Act . . . to define who are vagrants, etc.*—SEC. 1. The following persons are and shall be punished as vagrants, viz.:

(k) Every person who shall abandon his wife or family, without just cause, leaving her or them without support, or in danger of becoming a public charge.

(m) All persons who are able to work and do not work, but hire out their minor children or allow them to be hired out, and live upon their wages.

SEC. 2 AND 3. (Make it the duty of the sheriff and constables of every county, and of the police and marshals, or other like officers of every town and city to give information, under oath, of all vagrants, and of any officer empowered to issue criminal warrants to cause the arrest of any person alleged to be a vagrant.)

*Proceedings, etc.*—SEC. 4. Whenever any person shall have been arrested on a charge of vagrancy, he shall be immediately carried before a justice of the peace . . . or before the mayor or police justice of any city, town or village . . . , and on satisfactory evidence of his being a vagrant, the justice or mayor, or police justice shall commit such person to jail for not less than ten nor more than thirty days, and said person so committed shall serve said sentence for the prescribed time . . . , unless such person give bond, with sufficient security to be approved by said justice or mayor, or police justice, in any sum not less than two hundred and one dollars (\$201) for the future industry and good conduct of such person for one year from the date of giving such bond. . .

*Vagrant may be rearrested after bond forfeited.*—SEC. 5. Whenever any vagrant shall forfeit his bond . . . by any misconduct amounting to a breach of the bond . . . such vagrant may be rearrested immediately, and placed on trial before the justice of the peace or mayor or police justice before whom the original proceedings were had, or may be immediately indicted by the grand jury and placed on trial in the circuit court as a vagrant, and on conviction for a second offense shall be committed to jail for not less than ninety days nor more than six months, and shall serve said sentence for the prescribed time. . .

*On conviction of second offense vagrant committed to jail.*—SEC. 7. Whenever any person shall be convicted of a second offense of vagrancy, no matter under which head of this act, he shall be committed to jail for not less than ninety days nor more than six months, and shall serve said sentence for the prescribed time, and shall not be liberated from such sentence by payment for the time required to be served by said sentence. . .

(Laws of 1904, Chap. 144; approved Feb. 29, 1904.)

## REMARKS

The offense is not defined, but by Sec. 1502 and 1503 it would be a misdemeanor.

The offense is extraditable, as the statute makes the ground of it being charged with a criminal offense. (Sec. 2162, Annotated Code of Law, 1892.)

The wife may testify in all controversies with her husband. (Sec. 1739.)

Wilful, continued and obstinate desertion for the space of two years is ground for divorce. (Sec. 1562.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## MISSOURI

## LAWS

SEC. 1861. *Abandonment of wife or child.*—If any man shall, without good cause, abandon or desert his wife, or abandon his child or children under the age of twelve years, born in or legitimized by lawful wedlock, and shall fail, neglect or refuse to maintain and provide for such wife, child or children, he shall, upon conviction, be punished by imprisonment in the county jail not more than one year, or by a fine of not less than fifty nor more than one thousand dollars, or by both such fine and imprisonment. No other evidence shall be required to prove that such husband was married to such wife, or is the father of such child or children, than would be necessary to prove such fact or facts in a civil action. (Revised Statutes, 1899.)

## REMARKS

The offense is not defined, but the penalty would make it a misdemeanor. (Sec. 2395.)

The offense is extraditable under the statute, which follows the U. S. laws as to grounds of extradition. (Sec. 7466.)

The wife is a competent witness. (Sec. 2637.)

Absence for the space of one year without reasonable cause is ground for divorce. (Sec. 2921.)

In case of abandonment or refusal or neglect to support the wife the circuit court may grant an order for support and enforce it against the husband's property by execution. (Sec. 4327.)

## MONTANA

### LAWS

SEC. 470. Every parent of a child who wilfully omits, without lawful excuse, to perform any duty imposed upon him by law, to furnish necessary food, clothing, shelter, or medical attendance for such child, is guilty of a misdemeanor.

SEC. 19. Except in cases where a different punishment is prescribed by this Code, every offense declared to be a misdemeanor is punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding five hundred dollars, or both.  
(Penal Code of 1895.)

### REMARKS

The offense is extraditable under the statute, which follows the U. S. Constitution in making other crime a ground for extradition as well as treason or felony. (Penal Code of 1895, Sec. 2853.)

The wife cannot testify without her husband's consent in a criminal proceeding against him. (Penal Code of 1895, Sec. 2441.)

Wilful desertion or wilful neglect is ground for divorce. (Civil Code of 1895, Sec. 132.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## NEBRASKA

### LAWS

SEC. 3251a. *Abandoning or mistreating children—cruelty.*—It shall be unlawful, and is hereby declared to be cruelty within the meaning of this act, for any person having the care, custody or control of any child or children under the age of fourteen years, to wilfully abandon, cruelly or unlawfully punish, or wilfully or negligently deprive of necessary food, clothing or shelter such child or children.

SEC. 3251c. *Same—penalty.*—Any person or persons convicted under any of the foregoing provisions of this act shall be fined in any sum not more than one hundred dollars, or imprisonment in the jail of the county not exceeding three months, at the discretion of the court. (Compiled Statutes of 1901.)

*Abandonment of wife or children.*—SEC. 1. Every person who shall, without good cause, abandon his wife and wilfully neglect or refuse to maintain or provide for her, or who shall abandon his or her legitimate or illegitimate child or children under the age of sixteen years, and wilfully neglect or refuse to provide for such child or children, shall, upon conviction, be deemed guilty of a desertion and be punished by imprisonment in the penitentiary for not more than one year, or by imprisonment in the county jail for not more than six months.

SEC. 2. Provided, however, if after conviction and before sentence such husband or parent shall appear before the court in which conviction shall have taken place, and enter into bond to the State of Nebraska in the penal sum of two hundred dollars, to the approval of the court as to surety, conditioned that such husband

will furnish such wife with necessary and proper home, food, care and clothing or that such parent will furnish said child or children with necessary and proper home, food, care and clothing, then said court may suspend sentence therein.

SEC. 3. And provided further, that upon the failure of said husband or parent to comply with said undertaking, he or she may be arrested by the sheriff or other officer on a warrant issued on the precept of the prosecuting attorney, and brought before the court for commitment, whereupon the court may commit, or for good cause shown, may modify the order and take a new undertaking, and further suspend sentence as may be just and proper.

SEC. 4. Whereas an emergency exists therefor, this act shall be in force and effect from and after its passage and approval. (Laws of 1903; approved Apr. 8, 1903.)

#### REMARKS

The offense is not defined in either statute, but the punishment would make that in 3251a a misdemeanor, and that in the Act of April 8, 1903, felony. (Sec. 6971.)

The offense under either statute is extraditable under the provision which makes the ground for extradition being charged with a criminal offense against the laws of any other state or of any of the territories of the United States, and which, if the act had been committed in this state, would, by the laws thereof, have been a crime. (Sec. 7055.)

The wife cannot testify against her husband in criminal proceedings against him, except for crime committed by him against her. (Sec. 5905.)

Wilful abandonment without just cause for two years, or gross, wanton and cruel refusal by the husband to provide suitable maintenance, being of sufficient ability, is ground for divorce. (Sec. 2861, 2862.)

When divorce is not granted the court may make an order for the support of the wife or children, or both, by the husband or out of his property. (Sec. 2895.)

There is no other provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## NEVADA

### LAWS

The laws of Nevada contain nothing making it an offense for a man not to support his family or parents not to support their children. Even the vagrancy laws do not cover failure to support the family. (Sec. 4860, 4861, Compiled Laws of 1900.)

### REMARKS

Wilful desertion for one year, or neglect for one year on the part of the husband to provide common necessities, when such neglect is not the result of poverty on the part of the husband which he could not avoid by ordinary industry, is ground for divorce. (Sec. 502—3d and 7th.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## NEW HAMPSHIRE

### LAWS

*Offenses against Minors—Cruelty etc.*—CHAP. 265, SEC. 1. If any parent or other person having custody of a minor child under the age of fourteen years shall cruelly abandon, or shall treat with gross and habitual cruelty, or shall neglect in such manner as to amount to cruelty, such child, he shall be imprisoned not exceeding one year, or fined not exceeding one hundred dollars, or both.

*Vagabonds etc.*—CHAP. 264, SEC. 21. . . . A person who so neglects his employment or misspends his earnings as not to provide properly for the support of himself and family shall be imprisoned not exceeding six months.

(Public Statutes and Session Laws in force Jan. 1, 1901.)

#### REMARKS

The offense is not defined in either statute, and the statutes nowhere define felony or misdemeanor, and only allude to felony in one instance, though the index implies in another that an offense punishable by imprisonment for one year is felony. (Chap. 175, Sec. 5, IV.)

In either case the offense would be a misdemeanor at common law and hence extraditable under the provision which follows U. S. laws, and therefore requires extradition for other crime as well as for treason or felony. (Chap. 263, Sec. 1.)

The wife is a competent witness in all cases, civil or criminal. (Chap. 224, Sec. 20.)

Absence without being heard of for three years together; or abandonment without cause for three years, or willingly absenting himself for three years on the part of the husband without providing for the maintenance of the wife, is ground for divorce. (Chap. 175, Sec. 5, VII, X and XI.)

When the husband is insane or other cause exists which if continued would be ground for divorce, the supreme court may, on petition of the wife, make allowance out of the husband's estate for the support of herself and minor children; and may enforce this by attachment of the husband's property. (Chap. 176, Sec. 4, 5.)



## NEW JERSEY

## LAWS

*An Act concerning disorderly persons.*—III—Desertion proceedings. Sec. 17. Any husband or father who deserts, or wilfully refuses or neglects to provide for and maintain his wife or other family shall be deemed and adjudged a disorderly person, and whenever any overseer of the poor of the township or city within which any husband or father resides, or . . . . the township or city where the wife or other family resides at the time of desertion, believes that such person does desert or wilfully refuse or neglect to provide for and maintain his said family, and that by reason thereof such family may become chargeable to such township or city, it shall be his duty to make complaint thereof, under oath, before some magistrate in either the township or city. . . .

SEC. 18. Upon receiving such complaint against any husband or father provided for in the preceding section the magistrate before whom such complaint is made shall issue his warrant . . . . for bringing him before such magistrate, upon the return of which warrant said magistrate shall cause such person to enter into a bond to said overseer, in any sum not exceeding five hundred dollars, with good security, conditioned for his appearance . . . . to answer said complaint, and to abide all orders, judgments and decrees that may be made against him touching said complaint; and in default of such person entering into such bond and giving such security said magistrate shall commit him to the county jail or penitentiary to await the investigation of said complaint.

SEC. 19. At the time of appearance . . . . the magistrate shall proceed to hear . . . . , and shall decide whether such person is guilty or not guilty thereof; if he decides such person guilty he shall adjudge him to be a disorderly person, and in lieu of the penalties prescribed in this act for disorderly persons, such magistrate may make an order requiring such person to pay such sum weekly to said overseer, for the support and maintenance of his family as to said magistrate may seem proper; but if such person acknowledge himself guilty then said magistrate may forthwith make such adjudication and order.

(SEC. 20 provides for trial by jury if demanded. Sec. 21 and 22 provide for appeal to court of quarter sessions, for continuing cases and for fees.)

SEC. 23. All orders made against any such husband or father under the provisions of this act shall continue in force for the term of one year from the time when the payments therein directed commence to run; but such order shall not be a bar to a subsequent complaint after the expiration of said term, and upon all trials both the wife of the person complained of and himself may be witnesses.

SEC. 24. Where any order last aforesaid shall be made in pursuance of this act, the person against whom the same is made shall be required to execute a bond with good security to the overseer of the poor of the township or city, to stand to and obey such order and such other orders as may be made in case an appeal be taken, and in default thereof the accused shall be committed to the county jail or penitentiary until such bond shall be given; *provided*, that the magistrate before such appeal be taken, or such court of quarter sessions thereafter, upon being satisfied that further imprisonment will fail to produce support for the family aforesaid of the accused, or security therefor, may discharge the accused from further imprisonment, but no such discharge shall be granted until the accused shall have first paid all previous costs; . . . and *provided further*, that in case the bond be given as required by the eighteenth section hereof that no further bond shall be necessary, but the same shall bind the security for the faithful obedience of the accused to all orders and decrees made in pursuance of this act.

(SEC. 25-28 relate to proceedings where the family is in the poorhouse or the accused is in another county in the state.)

SEC. 29. Any husband or father who deserts or wilfully refuses or neglects to provide for and maintain his wife or other family, and who shall, in consequence thereof, be adjudged a disorderly person and be committed to the workhouse, or county jail or penitentiary of the county, as provided by this act, shall be put and kept at hard labor by the board of chosen freeholders of the county, in the same manner as other persons committed to such

jail, penitentiary or workhouse are put and kept at hard labor. (Laws of 1898, Chap. 239, and amendments in Laws of 1903, Chap. 117, Apr. 7, 1903.)

*Supplement to an act for the punishment of crimes, Revision of 1898.* SEC. 1. Any husband or father who deserts and wilfully refuses or neglects to provide for and maintain his wife or minor child or children, shall be guilty of a misdemeanor and be punished by a fine not exceeding one hundred dollars or imprisonment with or without hard labor, as the court may direct, for any term not exceeding one year.

SEC. 2. The wife of the defendant or accused shall be a competent witness against the defendant or accused.

SEC. 3. This act shall take effect immediately.

(Laws of 1903, Chap. 216, approved Apr. 8, 1903; Amended by Laws of 1904, Chap. 202, approved Mar. 30, 1904.)

SEC. 2. Any person having the care, custody or control of any minor child who shall wilfully neglect to support the same with sufficient food, clothing, regular school education or who shall wilfully abandon or neglect the same, shall be guilty of a misdemeanor, and, upon conviction thereof, before any justice of the peace, magistrate or court of record, shall be fined . . . . an amount not exceeding fifty dollars for each offense; *providing always* that said justice, magistrate or court of record shall have power to suspend judgment . . . . whenever any person convicted under the provisions of this section shall enter into bond with at least one sufficient surety to any duly authorized . . . . humane society within this state having for one of its objects the protection of children from cruelty or neglect in a sum, to be fixed by said justice or magistrate, not exceeding five hundred dollars, conditioned for the payment of a certain weekly amount to be also fixed by said justice or magistrate to said society for the care, nurture, support or education of said child during its minority or for such shorter term as the said justice or magistrate may direct.

(Act of Mar. 4, 1880; Supplement Mar. 22, 1901, Chap. 125; Amended Mar. 29, 1904, Chap. 166.)

*Infants.*—SEC. 36. In default of payment of the fine or penalty imposed under any of the sections of this act, together with the costs of the proceedings, then the said justice of the peace, magistrate or court of record shall commit said offender to the county prison or penitentiary, there to remain for a term not to exceed one year or until discharged by due course of law; *provided*, that when the fine imposed exceeds the sum of ten dollars the party complained against may appeal from the decision of said justice of the peace or magistrate to the court of quarter sessions . . . ; if, in lieu of deciding the cause, such justice of the peace or magistrate shall bind over or commit such person to appear at the court of quarter sessions, or if such person shall appear as aforesaid, or upon such binding over or commitment appear before the said court and be there convicted of such misdemeanor, he shall be sentenced to pay a fine not exceeding two hundred dollars, payable as aforesaid, or undergo an imprisonment not exceeding one year, or both, at the discretion of the court.

SEC. 2 (of Act 1904). All acts or parts of acts inconsistent with this act be and the same are hereby repealed, and this act shall take effect immediately.

(Sec. 11, of Act of Mar. 4, 1880, amended by law of Apr. 7, 1903, Chap. 118, and law of Mar. 29, 1904, Chap. 178.)

#### REMARKS

Neither felony nor misdemeanor is defined by the statutes, but the offense of being a disorderly person under the law of 1898, Chap. 239, is probably only quasi-criminal, and not a crime.

The law as to extradition makes the governor the judge as to whether the facts warrant it. If he thinks they do he is to issue his warrant accordingly. (General Statutes of 1895, Page 1161, Sec. 209, 210.)

Nothing is said about the ground of it or about U. S. laws, but the U. S. Constitution is given at p. ix, and the right must rest on U. S. laws, which would make the offense extraditable under the Act of Mar. 4, 1880, with its supplement and amendments, and under the law of 1903, Chap. 216, and amendment.

Wilful, continued and obstinate desertion for two years is ground for divorce. (Laws, 1902, Chap. 157, Sec. 2—II.)

In case of desertion by the husband the chancery court may order him to maintain the wife and may enforce the order. (Laws, 1902, Chap. 157, Sec. 20.)

There is no other provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## NEW MEXICO

### LAWS

*Disorderly Persons.*—SEC. 1333. The following are disorderly persons: . . . Third, persons who actually abandon their wives and children without adequate support.

SEC. 1335. Any person who abandons his wife or family, leaving her or them without sufficient means of support, or who, being able to work, fails to provide for the support of his wife or family, as far as his ability extends, and thereby leaves her or them destitute shall, on conviction thereof, be imprisoned for such period not exceeding one year, as the court may fix, and on a second or subsequent offense, the imprisonment may be for any period not exceeding two years.

(SEC. 1336 provides that upon information to any justice of the peace by constable, or any person under oath, the justice of the peace shall order the person brought before him.)

SEC. 1337. If the justice of the peace be satisfied, from confession of the defendant, or by competent testimony, that the accused is a disorderly person, he shall require that the person accused give security, by a written obligation, in such sum as the justice of the peace may require, with two or more responsible securities, to be approved by the magistrate, to the following effect:

First, If he be one of the persons described in the third paragraph of Sec. 1333, that he will support his wife and children. . . .

SEC. 1338. If the obligation be given the defendant must be set at liberty; but if not the justice of the peace must convict him as a disorderly person, and order him to be committed to the county jail for the term of ten days and be kept at hard labor.

SEC. 1339. If the undertaking be forfeited action may be brought in the name of the county and the sum collected must be paid into the county treasury. (Compiled Laws of New Mexico, 1897.)

#### REMARKS

The offense is not defined, but the penalty makes it a misdemeanor. (Sec. 1044.)

The offense is extraditable under the statute, which follows the U. S. Constitution in making other crime a ground for extradition as well as felony or treason. (Sec. 3449.)

The wife is not a competent witness against her husband in criminal prosecutions, except in actions for personal violence committed by him upon her. (Sec. 3432.)

Abandonment, or neglect on the part of the husband to support the wife, is ground for divorce. (Sec. 1431.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## NEW YORK

#### LAWS

SEC. 899. *Who are disorderly persons.*—The following are disorderly persons:

1. Persons who actually abandon their wives or children, without adequate support, or leave them in danger of becoming a burden upon the public, or who neglect to provide for them according to their means :

2. Persons who threaten to run away, and leave their wives or children a burden upon the public. . . .

SEC. 900. *On complaint, warrant to be issued.*—Upon complaint on oath, to a justice of the peace or police justice of a city, village or town, or to the mayor, recorder, city judge or judge of the general sessions of a city, against a person, as being disorderly, the magistrate must issue a warrant . . . . requiring a peace officer to arrest the defendant, and bring him before the magistrate for examination.

SEC. 901. *On confession or proof that he is a disorderly person, security to be required.*—If the magistrate be satisfied, from the confession of the defendant, or by competent testimony, that he is a disorderly person, he may require that the person charged give security, by a written undertaking, with one or more sureties approved by the magistrate, to the following effect :

1. If he be a person described in the first or second subdivision of Sec. 899, that he will support his wife and children, and will indemnify the county, city, village or town, against their becoming, within one year, chargeable upon the public. . . .

SEC. 902. *If security given, defendant to be discharged. If not, to be convicted.* . . . . If the undertaking be given, the defendant must be discharged. But if not, the magistrate must convict him as a disorderly person, and must make . . . . a certificate . . . . that he is a disorderly person. . . .

SEC. 903. *Certificate to constitute record of conviction, and to be filed; commitment thereon.* The magistrate must immediately cause the certificate . . . . to be filed in the office of the clerk of the county, and must, . . . . commit the defendant to the county jail . . . . or city prison or penitentiary . . . . for not exceeding six months at hard labor, or until he gives the security prescribed in Sec. 901.

SEC. 904. *Undertaking, when forfeited.*—The undertaking . . . is forfeited, by the commission of any of the acts which constitute the person by whom it is given a disorderly person. . . .

SEC. 905. *How prosecuted, and proceeds how applied.*—When an undertaking is forfeited, it may be prosecuted in the name of the county superintendents of the poor, or the overseers of the poor of the town . . . and the sum collected in the action must be paid into the county or city treasury, as the case may be, for the benefit of the poor. . . .

SEC. 906. *When new security may be required, or defendant committed after recovery on undertaking.*—Upon a recovery on the undertaking, the court in which it is had may require from the defendant new security, in the manner provided in Sec. 901, or if he fail to give it, may commit him in the manner provided in Sec. 903. (Code of Criminal Procedure, 1904.)

*An Act to amend the Code of Criminal Procedure relating to the appointment of probation officers, and defining their duties.*—Amends Sec. 483.)—Sec. 3. If the judgment be in a case specified in title 7, part 6, to pay a fixed sum per week for the support of wife, or wife and children, the magistrate at the time of making the order, or thereafter during the confinement of the defendant, may, if the defendant be unable to pay the fixed sum or to find surety, suspend the requirement to find surety and place the defendant on probation under the care and supervision of a probation officer, upon such terms and conditions as may be prescribed, for the unexpired portion of the period for which such order was made. (Laws of 1903, Chap. 274, approved Apr. 24, 1903.)

SEC. 288. *Unlawfully omitting to provide for child.*—A person who, (1) wilfully omits, without lawful excuse, to perform a duty by law imposed upon him to furnish food, clothing, shelter or medical attendance to a minor . . . is guilty of a misdemeanor.

SEC. 15. *Punishment of misdemeanor.*—A person convicted of a crime declared to be a misdemeanor, for which no other punishment is specially prescribed by this Code, or by any other statutory provision in force at the time of the conviction and sentence, is



punishable by imprisonment in the penitentiary, or county jail, for not more than one year or by a fine of not more than five hundred dollars, or by both. (Penal Code, 1904.)

#### NEW YORK CITY

SEC. 685. *Maintenance of abandoned wives and children.*—Every person in the City of New York as constituted by this act who actually abandons his wife or children without adequate support, or leaves them in danger of becoming a burden upon the public, or who neglects to provide for them according to his means, or who threatens to run away and leave his wife and children a burden upon the public, may be arrested upon a complaint made under oath to a city magistrate and a warrant thereon issued, and brought before such magistrate, as provided by Sec. 900 of the Code of Criminal Procedure. And if it thereupon shall appear by the confession of the defendant or by competent testimony that he is guilty of the charge, the said magistrate shall make an order specifying a reasonable sum of money to be paid weekly for the space of one year thereafter by such defendant to the commissioner of public charities for the support of the wife or children. . . .

SEC. 686. Any person convicted of any of the offenses hereinbefore recited shall, upon being served with such order, enter into a bond to the people of the state in such sum as the magistrate shall direct, with good and sufficient surety to be approved by the said city magistrate, that such person will pay weekly for the space of one year such sum for the support of the wife or children or either of them as has been ordered as aforesaid, to the commissioner of public charities. In default of such surety being found, the city magistrate shall make up, sign and file in the office of the clerk of the county . . . a record of conviction of such offender as a disorderly person, specifying generally the nature and circumstances of the offense, and shall by warrant commit such offender to the workhouse on Blackwell's Island, or to the penitentiary or jail in the borough where the conviction is had, there to remain until such surety be found or such offender be discharged ac-

according to law; or he shall sentence such offender to imprisonment in the penitentiary, for a term not exceeding six months or until such offender gives the security as hereinbefore provided or is discharged according to law. Upon the trial or hearing of all complaints for any or either of the offenses hereinbefore referred to the wife shall be a competent witness therein against her husband, as to all matters embraced in said complaint.

SEC. 687. Any suit . . . on any bond or recognizance given in pursuance of the preceding sections shall be brought and prosecuted in the name of the commissioner of public charities, and all moneys recovered in any suit . . . shall be paid to the commissioner to be by him applied and expended for the support of the wife and children, or either or any of them, of the person against whom the order mentioned and provided for in Sec. 685 of this act shall have been made.

(SEC. 687 and 688 make similar provisions as to bail forfeited.)  
(Charter of 1901, Chap. XIII, Title 1, Department of Public Charities.)

#### REMARKS

While the offense under Sec. 288 of the Penal Code is clearly a misdemeanor that under the disorderly persons act is not defined, and has been held to be neither misdemeanor nor felony. (People *ex rel.* Frank *v.* Keeper, 38 *Misc.*, 240.)

The statute as to extradition makes the ground treason, felony or crime, and the offense under Sec. 288 is therefore extraditable; but the quasi-crime under Sec. 899 would not be. (Code Crim. Proc., Sec. 827.)

The wife is a competent witness. (Penal Code, Sec. 715.)

Abandonment, or neglect of the husband to provide for the support of the wife, is ground for divorce. (Code Civil Proc., Sec. 1762.)

On divorce the court may provide for the maintenance of the wife and children and may sequester the husband's property. (Code Civil Proc., Sec. 1772.)

There is no other provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## NORTH CAROLINA

### LAWS

SEC. 970. *Abandonment of wife and children by husband.*—If any husband shall wilfully abandon his wife without providing adequate support for such wife, and the children which he may have begotten upon her, he shall be guilty of a misdemeanor.

SEC. 972. *Adequate support, failure of husband to provide.*—If any husband, while living with his wife shall wilfully neglect to provide adequate support for such wife or the children which he has begotten upon her, he shall be guilty of a misdemeanor.

SEC. 1097. *Punishment for misdemeanors.*—Offenses made misdemeanors by statute, where a specific punishment is not prescribed, shall be punished as misdemeanors at common law, but if . . . . infamous . . . . by imprisonment in the county jail or penitentiary, not less than four months nor more than ten years, and be fined. (Code of 1883.)

In *State v. Driver*, 78 Supreme Court Reports, the Supreme Court of North Carolina declared that where no maximum is fixed a sentence for a greater term than two years in jail or the penitentiary is in conflict with the declaration of the Constitution which says that cruel or unusual punishment shall not be inflicted; and as no maximum is fixed by Sec. 970 and 972, the maximum term would therefore be two years.

## REMARKS

The statute as to extradition applies to any fugitive charged within the United States with an offense punishable by the law of the state where committed either capitally or by imprisonment in any state prison for one year or upwards (Sec. 1165); but it is held by the executive office at present that any offense against the law of a demanding state is extraditable, and that a man can be extradited for abandonment of family. This follows U. S. laws on the subject.

The wife is not a competent witness. (Sec. 588.)

Abandonment of his or her family by either party is ground for divorce. (Sec. 1286.)

When the husband separates himself from the wife and fails to provide for her necessary subsistence according to his means the wife may apply to the superior court, which may secure such subsistence for her and her children from the husband's estate. (Sec. 1292.)

## NORTH DAKOTA

## LAWS

SEC. 7173. *Parent omitting to provide for child.*—Every parent of any child who wilfully omits, without lawful excuse, to perform any duty imposed upon him by law, to furnish necessary food, clothing, shelter or medical attendance for such child, is guilty of a misdemeanor.

SEC. 7174. *Abandoning or refusing to support minor child.*—Every person who either:

1. Wilfully abandons and leaves his minor child in a destitute condition; or, who,
  2. Is of sufficient ability to provide such child's support; or,
  3. Is able to earn the means of such child's support, unreasonably refuses or neglects to provide for such minor child,
- Is guilty of a misdemeanor.

SEC. 7175. *Abandoning or refusing to support wife.*—Every person who, either :

1. Wilfully abandons and leaves his wife in a destitute condition ; or, who,
  2. Is of sufficient ability to provide such wife's support ; or,
  3. Is able to earn the means of such wife's support, unreasonably refuses or neglects to provide for such wife,
- Is guilty of a misdemeanor.

SEC. 7176. *Punishment.*—Every person convicted of any of the offenses mentioned in the last two sections is punishable by imprisonment in the county jail not less than thirty days and not exceeding six months.

SEC. 6812. *Misdemeanors.*—Except in cases where a different punishment is prescribed by this code or by some existing provisions of law, every offense declared to be a misdemeanor is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment. (Revised Code of 1899.)

#### REMARKS

The offense is extraditable under the statute, which follows the U. S. Constitution in making other crime as well as treason or felony a ground for extradition. (Sec. 8483.)

In a criminal proceeding against her husband the wife cannot testify without his consent, except as to a crime committed by him against her. (Sec. 5653.)

Wilful desertion or wilful neglect to provide adequate support is ground for divorce. (Sec. 2737.)

In an action for divorce, though divorce is denied, the court may provide for the maintenance of the wife and children by the husband. (Sec. 2758.)

There is no other provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## OHIO

## LAWS

SEC. 6984a. *Penalty for torturing or neglecting children.*—Whoever tortures, torments, cruelly or unlawfully punishes, or wilfully, unlawfully and negligently deprives of necessary food, clothing or shelter, any person, or whoever having the control of or being the parent or guardian of any child or children under the age of sixteen years, wilfully abandons such child or children, or tortures, torments, cruelly or unlawfully punishes such child or children, or wilfully, unlawfully or negligently fails to furnish necessary and proper food, clothing or shelter for such child or children, shall be fined not more than two hundred dollars nor less than ten dollars, or imprisoned for not more than six months, or both.

SEC. 3140-2. *Abandonment of child by parent a felony.*—The father, or, when charged by law with the maintenance thereof, the mother, of a legitimate or illegitimate child or children under sixteen years of age, living in this state, who being able either by reason of having means or by personal services, labor or earnings, shall neglect or refuse to provide such child or children with necessary and proper home, care, food and clothing, . . . shall upon conviction be deemed guilty of a felony punished by imprisonment in penitentiary for not more than three years nor less than one, or in a county jail or in a workhouse at hard labor for not more than one year nor less than three months; provided, however, if after conviction and before sentence he shall appear before the court in which said conviction shall have taken place, and enter into bond to the State of Ohio in the penal sum of one thousand dollars to the approval of the court as to surety, conditioned that he will furnish said child or children with necessary and proper home, food, care and clothing, . . . then said court may suspend sentence therein. . . . And, provided further, that upon a failure of said parent to comply with said order and undertaking, he or she may be arrested by the sheriff or other officer on a warrant issued on the precipe of the prosecuting attorney and brought before the court for sentence, whereupon the court may pass sen-

tence or for good cause shown may modify the order and take a new undertaking, and further, suspend sentence as may be just and proper.

SEC. 2099b. *Cruelty, etc.; who shall be sentenced for.*—And in any such county containing a city of such third grade, first class, when any person, being the parent or guardian of any child or children under sixteen (16) years of age, is convicted of the offense of torturing . . . or wilfully and negligently depriving of proper food, clothing or shelter, or wilfully abandoning such child or children, as is provided for in supplementary section 6984a of the Revised Statutes, and a fine shall have been imposed in whole or in part punishment for such offense, and the same and the costs of said prosecution are not immediately paid, such person shall be imprisoned in said workhouse and kept at hard labor, until, at the rate of sixty cents per day for each day's labor, Sundays and days of sickness not to be counted, he shall have cancelled the amount of such fine and costs, and during the whole term of his imprisonment under the sentence for said offense, he shall be kept at hard labor; and said board of directors shall pay over to the mother or guardian of the said child or children of such person so imprisoned at the end of each week of said imprisonment for the support of said child or children, when the same is needed for such support, a sum equal to forty cents, for each day of labor as aforesaid, and the sum so paid as aforesaid shall be by said board charged up as a part of the current expenses of maintaining said workhouse and shall be allowed accordingly. (Apr. 3, 1899.) (Bates' Annotated Statutes, 1904.)

#### REMARKS

The offense in Sec. 6984a is not defined, but the punishment makes it a misdemeanor. (Sec. 6795.)

The statute as to extradition follows the laws of the U. S. in making other crime as well as treason or felony ground for it, so that the offense under either section is extraditable. (Sec. 95, 7156.)

The wife is a competent witness in case of personal injury by the husband to herself, or of neglect of or cruelty to minor children under ten years of age. (Sec. 7284.)

Wilful absence for three years, or any gross neglect of duty, is ground for divorce. (Sec. 5689.)

A wife may ask for alimony without divorce in case of separation, and the court may so provide for her and her children. (Sec. 5702, 5703.)

## OKLAHOMA

### LAWS

SEC. 2267. *Omitting to provide for child.*—Every parent of any child who wilfully omits, without lawful excuse to perform any duty imposed upon him by law to furnish necessary food, clothing, shelter or medical attendance for such child is guilty of a misdemeanor.

SEC. 1935. *Punishment of misdemeanor.*—Except in cases where a different punishment is prescribed by this Code or by some existing provisions of law, every offense declared to be a misdemeanor is punishable by imprisonment in the county jail not exceeding one year or by a fine not exceeding five hundred dollars, or both such fine and imprisonment. (Revised and Annotated Statutes, 1903.)

### REMARKS

The offense is extraditable under the statute, which follows the U. S. Constitution in making other crime as well as treason or felony a ground for extradition. (Sec. 5692, Revised and Annotated Statutes, 1903.)

The wife is not a competent witness. (Sec. 5495, Revised and Annotated Statutes, 1903.)



Abandonment for one year, or gross neglect of duty, is ground for divorce. (Sec. 4543, Revised Statutes of 1893.)

In case of desertion the court may order the other to sell or incumber the property for the support of the family. (Sec. 2975, Revised Statutes of 1893.)

There is no other provision for a suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## OREGON

### LAWS

There is no law in Oregon making desertion or non-support of either wife or children an offense.

The vagrancy law was repealed Feb. 25, 1889, and there has been none since.

### REMARKS

In the laws concerning the support of the poor it is provided that parents shall be bound to maintain their children when poor and unable to work to maintain themselves, but this regards them as paupers or infirm rather than as children. (Sec. 5254, Bellinger & Cotton's Codes and Statutes of Oregon, 1902.)

Wilful desertion for one year is ground for divorce. (Sec. 507.)

It shall be lawful for any married woman to apply to the circuit court of the county in which she resides for an order upon her husband to provide for her support and the support of her minor children, if any, by said husband living with her. (Sec. 5240.)

## PENNSYLVANIA

## LAWS

*Desertion—Deserting husband may be arrested.*—In addition to the remedies now provided by law, if any husband, or father, being within the limits of this commonwealth, has, or hereafter shall, separate himself from his wife or from his children, or from wife and children, without reasonable cause, or shall neglect to maintain his wife or children, it shall be lawful for any alderman, justice of the peace, or magistrate of this commonwealth, upon information made before him under oath or affirmation, by his wife or children, or either of them, or by any other person or persons, to issue his warrant to the sheriff or to any constable for the arrest of the person against whom the information shall be made, as aforesaid, and bind him over, with one sufficient surety, to appear at the next court of quarter-sessions, there to answer the said charge of desertion.

2. *Quarter-sessions may make orders for support of wife.*—The information, proceedings thereon and warrant shall be returned to the next court of quarter sessions, when it shall be lawful for said court, after hearing, to order the person against whom complaint has been made, being of sufficient ability, to pay such sum as said court shall think reasonable and proper, for the comfortable support and maintenance of the said wife or children, or both, not exceeding one hundred dollars per month, and to commit such person to the county prison, there to remain until he complies with such order, or gives security, by one or more sureties, to the commonwealth, and in such sum as the court shall direct, for the compliance therewith.

3. *Costs.*—The costs of all proceedings by virtue of this act shall be the same as are now allowed by law in cases of surety of the peace, to be imposed in like manner; and all proceedings shall be in the name of the commonwealth; and that any wife so deserted shall be a competent witness on the part of the commonwealth, and the husband shall also be a competent witness. (Law of Apr. 13, 1867.)

(4. Relates to arrests in other counties.)

5. *Discharge from imprisonment.*—Whenever the court of

quarter-sessions of any county in the commonwealth shall, under the second section of the act to which this is a supplement, commit the person complained of to the county prison, there to remain until he comply with their order or give security, et cetera, it shall be lawful for the said court, at any time after three months, if they shall be satisfied of the inability of such person to comply with the said order, and give such security, to discharge him from imprisonment. (Law of Apr. 15, 1869.) (Columns 1621-1624, Pepper & Lewis Digest, 1894.)

*Cruelty—Penalty for cruel treatment.* . . . Any person having the care, custody or control of any minor child, who shall wilfully abandon or neglect the same shall be guilty of a misdemeanor, and, upon conviction thereof before any justice of the peace, magistrate or court of record, shall be fined by such justice, magistrate or court of record, not less than ten dollars nor more than fifty dollars for each offense. (Law of June 11, 1879.) (Column 2229.)

*An Act making it a misdemeanor for a husband or father to desert and neglect to support his wife or children, etc.*—Sec. 1. Be it enacted, etc., That as used in this act the word "children" shall be limited to mean children under sixteen years of age, and also such children over sixteen and under twenty-one years of age as, by reason of infirmity, are incapable of supporting themselves; and further, that "separation," within the meaning of this act, shall include every case where a husband has caused his wife to leave him by conduct on his part which would be ground for divorce.

SEC. 2. If any husband or father, being within the limits of this commonwealth, shall hereafter separate himself from his wife or from his children, or from wife and children, without reasonable cause, and shall wilfully neglect to maintain his wife or children, such wife or children being destitute, or being dependent wholly or in part on their earnings for adequate support, he shall be guilty of a misdemeanor; and on conviction thereof be sentenced to imprisonment not exceeding one year, and to pay a fine not ex-

ceeding one hundred dollars, or either, or both, at the discretion of the court; such fine, if any, to be paid or applied in whole or in part to the wife or children, as the court may direct.

Provided, That no such conviction, payment of fine, or undergoing imprisonment shall, in any manner, affect the obligation of any order for support theretofore made against the defendant in the court of quarter-sessions, in the manner now provided by law: And provided further, That upon conviction, the court may suspend sentence, upon and during compliance by the defendant with any order for support theretofore made against him, as already made or as may thereafter be modified, in the manner now provided by law; and if no such order shall have been made, then the court trying the defendant may make such order for the support by the defendant of his wife and children, or either of them, which order shall be subject to modification by the court on cause shown, and may suspend sentence, upon and during the compliance by defendant with such order then made or as thereafter modified and entry of bond by defendant, with surety approved by the court, conditioned on compliance with such order.

SEC. 3. In any proceedings under this act the wife shall be a competent witness. (Approved Mar. 13, 1903.)

#### REMARKS

Under the law of April 13, 1867, desertion is not a criminal offense. (Note, Col. 1622.)

The statutes nowhere define felony or misdemeanor.

No provision as to extradition is expressed in the statutes, though Column 1215, Sec. 299, implies recognition of a warrant from another state; and it would therefore depend on the U. S. laws, which would make the offense under laws of June 11, 1879, and March 13, 1903, extraditable.

The wife is a competent witness. (Law of May 23, 1887, Column 4832, Sec. 3, and of Mar. 13, 1903.)

Wilful and malicious desertion and absence for two years without reasonable cause is ground for divorce. (Column 1633, Sec. 1.)

There is no provision for a civil suit by the wife for maintenance, except that given under laws above.

## RHODE ISLAND

### LAWS

CHAP. 281. *Offenses against morality, etc.*—SEC. 24. Every person who shall abandon his wife or children, leaving them in danger of becoming a public charge, or who shall neglect to provide according to his means for the support of his wife or children, or who, being an habitual drunkard, shall neglect or refuse to aid in the support of his family . . . shall be imprisoned not less than six months nor more than three years.

SEC. 25. The . . . chief of police or overseer of the poor, or such officer as the town council . . . or city council . . . may appoint for the purpose may make complaint against any person for any of the offenses mentioned in the preceding section. (General Laws of Rhode Island, 1896.)

### REMARKS

The offense is not defined, nor do the statutes anywhere define either felony or misdemeanor.

The statute as to extradition follows U. S. laws, which make other crime as well as treason or felony a ground for extradition. (Chap. 286, Sec. 1.)

If offered by her the wife's testimony cannot be excluded, but she is not a compellable witness. (Chap. 244, Sec. 42.)

Wilful desertion for five years, or for a shorter time in the discretion of the court, or neglect or refusal on the part of the husband, he being of sufficient ability, to provide common necessities, is ground for divorce. (Chap. 195, Sec. 2.)

## SOUTH CAROLINA

## LAWS

SEC. 135. Whoever, being legally liable, either as parent, guardian, master or mistress, to provide for any child or children . . . necessary food, clothing or lodging, shall wilfully and without lawful excuse refuse or neglect to provide the same . . . shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be liable to a fine of not less than two hundred dollars nor more than one thousand dollars, or be imprisoned for any term not exceeding two years, with or without hard labor, one or both, at the discretion of the court. (Criminal Code, Code of Laws, 1902.)

## REMARKS

The only ground of extradition given by the statute of the state is the commission of an offense punishable in the state where committed by imprisonment for one year or upwards in any state prison (Criminal Code, Sec. 5) ; but this offense is clearly extraditable under U. S. laws, which require extradition for other crime as well as for treason or felony.

The wife is not a competent witness. (Sec. 65—Note.)

There are no divorce laws in South Carolina, and never have been, except for a few years following reconstruction. These were repealed in 1877.

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## SOUTH DAKOTA

## LAWS

SEC. 341. Every parent of any child who wilfully omits, without lawful excuse, to perform any duty imposed upon him by law to furnish necessary food, clothing, shelter or medical attendance for such child is guilty of a misdemeanor.

SEC. 14. Except in cases where a different punishment is prescribed by this code, or by some existing provisions of law, every offense declared to be a misdemeanor is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment. (Penal Code, Revised Codes of 1903.)

#### REMARKS

The offense is extraditable under the statute, which, like the U. S. laws, makes other crime as well as treason or felony a ground for extradition. (Penal Code, Sec. 616.)

The wife cannot testify against her husband, except in a civil action by her against him or in a criminal proceeding for a crime committed against her by him; and is therefore not a competent witness as to this offense. (Civil Code, Sec. 486—1.)

Wilful desertion, or wilful neglect on the part of the husband, is ground for divorce. (Civil Code, Sec. 67.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## TENNESSEE

#### LAWS

There are no laws in Tennessee making desertion or non-support of either wife or children an offense.

Even the vagrancy laws do not refer to support of family. (Sec. 3023, Code of 1896.)

**REMARKS**

Wilful or malicious desertion, or absence without a reasonable cause for two whole years, or abandonment and refusal or neglect to provide for the wife by the husband, is ground for divorce. (Sec. 4201 and 4202.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

**TEXAS****LAWS**

There is no law in Texas making desertion of or failure to support either wife or children an offense.

Even the vagrancy laws do not cover failure to support the family unless it is added to habitual drunkenness. (Criminal Code of 1896, Sec. 413—7.)

**REMARKS**

Desertion of the wife for three years by the husband with intent to abandon is ground for divorce. (Civil Code of 1898, Sec. 2977—3.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.



## UTAH

## LAWS

SEC. 4224. *Criminal neglect of child.*—Every parent or guardian of any child who wilfully omits, without lawful excuse, to perform any duty imposed upon him by law to furnish necessary food, clothing, shelter or attention for such child is guilty of a misdemeanor.

SEC. 4065. *Punishment of misdemeanor.* . . . Except in cases where a different punishment is prescribed by law, every offense declared to be a misdemeanor is punishable by imprisonment in a county jail not exceeding six months, or by a fine in any sum less than three hundred dollars, or by both. (Revised Statutes, 1898.)

## REMARKS

The offense is extraditable under the statute, which, like the U. S. Constitution, makes other crime as well as treason or felony a ground for extradition. (Sec. 5104.)

Except by consent, or in case of criminal violence by the husband upon her, the wife cannot testify in a criminal action against him; and therefore is not a competent witness as to this offense. (Sec. 5014.)

Wilful desertion for more than one year, or wilful neglect on the part of the husband to provide the wife with the common necessities of life, is ground for divorce. (Sec. 1208.)

A wife deserted by, or separated from her husband for good cause, may apply to the district court for maintenance and have it allowed. The procedure is as in divorce, and the court may order the payment of a fixed sum and enforce it by execution. (Sec. 1216, 1217 and 1218.)

There is no other provision for a civil suit by the wife for maintenance in case of neglect to support on the part of the husband.

## VERMONT

## LAWS

*An Act to amend Sec. 5157 of the Vermont Statutes, etc.—*

SEC. 1. Sec. 5157 . . . . is amended to read . . . . : A person who, being of sufficient ability, neglects, or refuses to provide necessary food and maintenance for his wife or minor children shall be fined not more than twenty dollars or imprisoned not more than six months or both in the discretion of the court; and a married woman shall be a competent witness in prosecutions against her husband under this section. Justices shall have concurrent jurisdiction with the county court of offenses under this section.

SEC. 3. This act shall take effect from its passage.

(Laws of 1902, No. 123, approved Nov. 11, 1902.)

## REMARKS

The offense is a misdemeanor by the statute defining offenses. (Sec. 5166, Revised Statutes of 1894.)

The statute as to extradition contains no special provision as to ground for it, but refers to U. S. laws regulating it, under which this offense is extraditable. (Sec. 2039.)

Wilful desertion for three consecutive years, or wanton refusal on the part of the husband to support the wife when he has sufficient pecuniary or physical ability to do so, is ground for divorce. (Sec. 2674.)

In a civil suit on petition of the wife, in case of failure on the part of the husband to support her or of his desertion, the court may make an order as to the support of the wife and minor children, which becomes a lien on the property of the husband. (Sec. 2701.)

## VIRGINIA

## LAWS

*An Act making it a misdemeanor to desert . . . wife or minor children.*

1. Any person who shall, without just cause, desert or wilfully neglect or refuse to provide for the support of his wife or minor children in destitute or necessitous circumstances, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment in jail not exceeding one year; provided, that before the trial (with the consent of the defendant), or after conviction, instead of imposing the punishment hereinbefore provided, or in addition thereto, the court in its discretion, having regard to the circumstances and financial ability of the defendant, shall have the power to enter an order, which shall be subject to change by it from time to time, as the circumstances may require, directing the defendant to pay a certain sum, weekly or monthly for the space of one year to the wife or to the custodian of the minor, and to release the defendant from custody on probation for the space of one year upon his entering into a recognizance, with or without sureties, in such sum as the court shall direct. The condition of the recognizance shall be such that if the defendant shall make his personal appearance at court whenever ordered to do so within the year, and shall further comply with the terms of the order or of any subsequent modification thereof, then the recognizance shall be void, otherwise to remain in full force and effect.

If the court be satisfied by information and due proof under oath at any time during the year that the defendant has violated the terms of such order, it may forthwith proceed to the trial of the defendant under the original indictment, or sentence him under the original conviction, as the case may be. In the case of forfeiture of a recognizance and enforcement hereof by execution, the sum recovered may, in the discretion of the court, be paid, in whole or in part, to the wife or to the custodian of the minor.

2. The corporation or hustings courts of the cities and the circuit courts of the counties, respectively, shall have exclusive original jurisdiction of all prosecutions and proceedings under this act. (Laws of 1904, Chap. III, approved Mar. 12, 1904.)

## REMARKS

The statute as to extradition makes the charge of other crime as well as treason or felony a ground for extradition, and the offense is therefore extraditable. (Sec. 4190, Code 1887.)

The wife can testify against her husband in criminal proceedings against him for a criminal offense committed against her, and is therefore a competent witness. (Sec. 3346a, Suppl. Code of 1898.)

Abandonment is ground for divorce. (Sec. 2257, 2258, Code 1887.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or failure to support on the part of the husband.

## WASHINGTON

## LAWS

SEC. 7071. *Cruelty to children*.—Whoever shall torture, . . . . deprive of necessary food or clothing or otherwise cruelly treat any minor, or being the parent or guardian . . . . shall do, cause or permit to be done any of the acts above mentioned, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not exceeding one hundred dollars, or imprisonment in the county jail any length of time not exceeding three months. (Ballinger's Annotated Codes and Statutes, 1897.)

## REMARKS

Under the statute being charged with any other crime as well as with treason or felony is ground for extradition, and the offense is therefore extraditable. (Sec. 7016.)

The wife cannot testify against her husband in a criminal action, except as to a crime committed by him against her, and is not therefore a competent witness. (Sec. 5994—1.)

Abandonment for one year is ground for divorce. (Sec. 5716—4.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or failure to support on the part of the husband.

## WEST VIRGINIA

### LAWS

*A bill to provide for the support of wives and children.*—It shall be unlawful for any man in this state to wilfully neglect, fail or refuse to provide reasonable support and maintenance for his wife or minor children who may need such support; and any person guilty of such neglect, failure or refusal, upon the complaint of the wife, or any agent of the West Virginia Humane Society and upon due conviction thereof, shall be adjudged guilty of a misdemeanor and shall be committed to the county jail for the period of not more than sixty (60) days; unless it shall appear that owing to physical incapacity or other good cause he shall be unable to furnish such support. Provided, that in case of conviction for the offense aforesaid, the justice of the peace before whom such conviction is had, may in lieu of the penalty herein provided, accept from the person convicted a bond payable to the state, with good and sufficient surety, conditioned for the support of the wife, child or children, as the case may be, for the term of six months after the date of said conviction; and the justice may accept such bond at any time after such conviction and order the release of the person so convicted.

2. Any justice of the peace of the county in which the offense mentioned in the preceding section is committed, may, upon complaint being made under oath, issue a warrant for the arrest of any person charged with such offense and the justice of the peace

before whom such person is brought under such warrant shall hear and determine the cause, subject to the right of appeal, as provided in Sec. 230 of Chap. 50 of the Code of West Virginia in cases of persons sentenced to imprisonment by the judgment of a justice. (Acts of 1901, Chap. 13, approved Feb. 20, 1901.)

*Cruelty to children.*—Any person, having the care . . . . of any minor child, who shall wilfully abandon or neglect the same . . . . shall be guilty of a misdemeanor, and shall be fined not less than ten dollars nor more than fifty dollars for each offense. (Acts of 1901, Chap. 14, approved Feb. 13, 1901.)

#### REMARKS

The statute as to extradition refers to the U. S. laws and makes other crime a ground as well as treason or felony, speaking of complaint or accusation as well as of indictment; so that the offense is extraditable by the statute. (Chap. 14, Sec. 12, Code of West Virginia, 1899.)

The wife cannot testify except by consent of her husband. (Chap. 152, Sec. 19.)

Abandonment for three years is ground for divorce. (Chap. 64, Sec. 5.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

### WISCONSIN

#### LAWS

SEC. 4587c. *Abandonment of child or wife.*—Any parent who shall wilfully abandon his or her minor child or children, leaving such child or children in a destitute condition, or being of sufficient ability to maintain or to earn the means with which to support him or them, or who shall unreasonably refuse or neglect to provide for such child or children; and any husband who shall wilfully

abandon his wife, leaving her in a destitute condition, or being of sufficient ability to furnish her means of support or to earn such means, shall unreasonably refuse or neglect to do so, shall be punished by imprisonment in the state prison not exceeding one year or in the county jail not more than six months nor less than fifteen days, ten days of which time of imprisonment in the county jail may, in the discretion of the court, be upon a diet of bread and water only; provided, that in counties having workhouses the commitment may be made to the workhouse instead of to the county jail, in which case the provision as to diet may be applied to imprisonment in the workhouse. In all cases arising under the provisions of this section the wife of the defendant shall be competent to testify for or against him. (Wisconsin Statutes, 1898.)

#### REMARKS

The statute as originally passed in 1887 declared the offense to be a misdemeanor, but the punishment made it a felony according to Sec. 4637, and the Supreme Court of the state, in 1894, in sustaining the law, in *State v. Grunke*, 88 Wis., 159, 162, held that it was a felony; so the word misdemeanor was omitted in the revision of the statutes in 1898.

The offense is extraditable under the statute, which makes any other crime as well as treason or felony ground for extradition. (Sec. 4847.)

Wilful desertion for one year is ground for divorce. (Sec. 2356.)

Whenever the father, or the mother if living apart, shall abscond or be about to abscond from his or her children, or a husband from his wife, or about to remove permanently, leaving wife or children or both chargeable or likely to become chargeable, or who shall neglect or refuse to support or provide for such wife or children, the mayor of the city, president of the village, or

supervisors of the town may apply to the county judge or justice of the peace and seize any real or personal estate such husband or parent has. (Sec. 1506.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## WYOMING

### LAWS

SEC. 3025. *Penalty for abandoning child.*—Any person having the natural or lawful charge of any minor child under the age of sixteen years, who shall wilfully abandon such child so that such child becomes a charge upon the county wherein such abandonment took place, shall be deemed guilty of a misdemeanor, and upon conviction, be fined in any sum not exceeding one hundred dollars, or imprisoned in the county jail for a period of time sufficient to pay such fine, at the rate of one dollar per day, should such fine not be paid.

(Sec. 3026 provides for civil action by county commissioners to recover all expense caused by such abandonment.)

SEC. 2291. *Unlawful to endanger life or health of children.*—It shall be unlawful for any person having the care, or custody of any child . . . wilfully to abandon such child, or to . . . negligently or wilfully deprive of necessary food, clothing or shelter, or in any other manner injure such child.

SEC. 2293. *Penalty.*—Any person who shall be convicted of violating any of the provisions of Sec. . . . 2291 . . . shall be fined not exceeding one hundred dollars, or be imprisoned in the county jail not exceeding three months, or both, in the discretion of the court; and upon conviction for a second or any subsequent offense, shall be fined not exceeding two hundred dollars, or be imprisoned in the county jail not exceeding six months. (Revised Statutes of Wyoming, 1899.)



## REMARKS

The offense under Sec. 2291 is also a misdemeanor by Sec. 5191.

The statute as to extradition requires it for any criminal offense against the laws of any other state which would, by the laws of this state, have been a crime if committed in the state; and the offense is therefore extraditable under the statute, as well as under U. S. laws. (Sec. 5452.)

The wife is not a competent witness in a criminal proceeding against her husband, except for a crime committed by him against her. (Sec. 3681.)

Wilful desertion for one year, or failure for one year on the part of the husband to provide common necessities of life when able to do so or to procure them by ordinary industry, is ground for divorce. (Sec. 2988.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## ALASKA

## LAWS

There are no laws in Alaska making desertion of or neglect to support either wife or children an offense.

## REMARKS

The civil code declares that parents shall be bound to maintain their children when poor and unable to support themselves, but this hardly seems to refer to them as children in years. (Civil Code, Sec. 18.)

Wilful desertion for the period of two years is ground for divorce. (Code Civil Proc., Sec. 467.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## HAWAII

### LAWS

Since the repeal of Sec. 850-853 of the Penal Laws, on March 30, 1903, which provided for the punishment of desertion of husband or wife, there has been no law in Hawaii making desertion of or failure to support either wife or children an offense.

### REMARKS

Wilful and utter desertion for three years, or neglect or refusal on the part of the husband to provide for the wife, he being of the ability to do so, is ground for divorce. (Sec. 1930, Laws, 1897.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## PORTO RICO

### LAWS

SEC. 263. Every parent of any child who wilfully omits, without lawful excuse, to perform any duty imposed upon him by law, to furnish necessary food, clothing, shelter or medical attendance for such child, is guilty of a misdemeanor.

SEC. 16. Except where a different punishment is prescribed any offense declared to be a misdemeanor is punishable by imprisonment in jail not exceeding two years or fine not exceeding two hundred and fifty dollars or by both. (Penal Code of 1902.)

#### REMARKS

The offense is extraditable under the statute, which makes other crime as well as treason or felony a ground. (Code of Crim. Procedure, Sec. 522.)

The wife is a competent witness. (Act of Mar. 10, 1904.)

Abandonment for a longer period than one year is ground for divorce. (Civil Code, Sec. 164.)

There is no provision for a civil suit by the wife for maintenance in case of desertion or neglect to support on the part of the husband.

## CANADA

#### LAWS

PART XV. *Vagrancy*.—SEC. 207. Every one is a loose, idle or disorderly person or vagrant who . . . .

(b) Being able to work and thereby or by other means to maintain himself and family wilfully refuses or neglects to do so. . .

SEC. 208. Every loose, idle or disorderly person or vagrant is liable, on summary conviction, to a fine not exceeding fifty dollars or to imprisonment, with or without hard labor, for any term not exceeding six months, or to both. (Criminal Code of 1892.)

## REMARKS

The offense was formerly a misdemeanor, but the distinction between felony and misdemeanor is now abolished. (Crim. Code, 1892, Sec. 535.)

The offense is included in the list of extraditable crimes in the Revised Statutes of Canada, of 1886. (Chap. 142, Sec. 2.)

The wife is a competent witness. (Revised Statutes of Canada, 1886, Chap. 162, Sec. 19—2.)

## A SUGGESTED FORM FOR A LAW

The following outline of a law as to desertion or non-support may be modified as existing laws and circumstances require:

SEC. 1. Any person who shall, without lawful excuse, desert or wilfully neglect or refuse to provide for the support and maintenance of his wife in destitute or necessitous circumstances, or any person who shall, without lawful excuse, desert or wilfully neglect or refuse to provide for the support and maintenance of his or her minor children under the age of sixteen years in destitute or necessitous circumstances, shall be deemed guilty of a [felony] misdemeanor, and, on conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the [state prison or state penitentiary at hard labor for not more than three years, or in the] reformatory, county jail, workhouse or house of correction at hard labor for not more than twelve months, or by both such fine and imprisonment; and should a fine be imposed it may be directed by the court to be paid in whole or in part to the wife or to the guardian or custodian of the minor child or children: Provided, that before the trial, with the consent of the defendant, or after conviction, instead of imposing the punishment hereinbefore provided, or in addition thereto, the court in its discretion, having regard to the circumstances and to the financial ability or earning capacity of the defendant, shall have the power to make an order, which shall be subject to change by it from time to time as circumstances may require, directing the defendant to pay a certain sum weekly for the space of one year to the wife, or to the guardian or custodian of the minor child or children, or to an organization or individual approved by the court as trustee, and to release the defendant from custody on probation for the space of one year upon his or her entering into a recognizance, with or without sureties, in such sum as the court may direct. The condition of the recognizance shall be such that if the defendant shall make his or her personal appearance in court whenever ordered to do so within the year, and shall further comply with the terms of the order and

of any subsequent modification thereof, then the recognizance shall be void, otherwise of full force and effect.

If the court be satisfied by information and due proof, under oath, that at any time during the year the defendant has violated the terms of such order, it may forthwith proceed with the trial of the defendant under the original indictment, or sentence him under the original conviction, or enforce the original sentence, as the case may be. In case of forfeiture of a recognizance, and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid in whole or in part to the wife, or to the guardian or custodian of the minor child or children.

SEC. 2. No other evidence shall be required to prove marriage of such husband and wife, or that such person is the lawful father or mother of such child or children, than is or shall be required to prove such facts in a civil action. In all prosecutions under this act any existing provisions of law prohibiting the disclosure of confidential communications between husband and wife shall not apply, and both husband and wife shall be competent and compellable witnesses to testify to any and all relevant matters, including the fact of such marriage and the parentage of such child or children. Proof of the desertion of such wife, child or children in destitute or necessitous circumstances or of neglect to furnish such wife, child or children necessary and proper food, clothing or shelter is prima facie evidence that such desertion or neglect is wilful.

SEC. 3. It shall be the duty of the  
in charge of any [state prison], reformatory, county jail, workhouse or house of correction in which any person is confined on account of a sentence under this law to pay over to the wife, or to the guardian or custodian of his or her minor child or children, or to an organization or individual approved by the court as trustee, at the end of each week, for the support of such wife, child or children, a sum equal to \_\_\_\_\_ for each day's hard labor performed by said person so confined.

(If justices of the peace or similar courts of lowest rank do not possess original jurisdiction in such actions already it should be vested in them; and, if not already possible, provision should be made by which the action can be begun on information, under oath, made by any one having knowledge of the facts.)

# STATE LAWS ON DESERTION AND NON-SUPPORT OF WIFE AND CHILDREN

<p>I. No law—  (a) as to wife.  (b) as to children.</p>	<p>South Carolina. (1)  Iowa, Nevada, Oregon, Tennessee,  Texas. (5)</p>
<p>II. Ground for divorce—  (a) only.  (b) in addition to being a  criminal offense as to chil-  dren.</p>	<p>Nevada, Tennessee, Texas. (3)  Arizona, Idaho, Kentucky, Montana,  South Dakota, Washington, Wy-  oming. (7)</p>
<p>III. Civil remedy provided—wife  may bring suit for support.</p>	<p>California, District of Columbia,  Georgia, Iowa, Ohio, Oklahoma,  Oregon, Utah. (8)</p>
<p>IV. A quasi-criminal offense, includ-  ing both wife and children.</p>	<p>Minnesota. (1)</p>
<p>V. A criminal offense, including  both wife and children.  (a) Misdemeanor—by terms.   —by defini-  tion.  —by penalty.   (b) Felony.</p>	<p>Colorado, Delaware, Florida, Illinois,  Indiana, Louisiana, Maryland,  New Jersey, New York, North  Carolina, North Dakota, Penn-  sylvania, Virginia, West Vir-  ginia. (14)  Alabama, Kansas, Maine, Massachu-  setts, Mississippi, Missouri, New  Mexico, Vermont. (8)  Arkansas, Connecticut, Indian Ter-  ritory, New Hampshire, Rhode  Island. (5)-(27)  Michigan, Nebraska, Wisconsin. (3)  (30)</p>
<p>VI. A criminal offense as to chil-  dren, not wife.  (a) Misdemeanor—by terms.   —by defini-  tion.  (b) Felony.</p>	<p>Arizona, California, District of  Columbia, Georgia, Idaho, Mon-  tana, Oklahoma, South Carolina,  South Dakota, Utah, Washington,  Wyoming. (12)  Kentucky. (1)-(13)  Ohio. (1)  (14)</p>

ABSTRACT OF STATUTES AS TO DESERTION OF CHILD WITH  
INTENT TO WHOLLY ABANDON; REFERRED TO ON PAGE  
12, BUT TEXT NOT GIVEN BECAUSE THE OFFENSE  
DIFFERS FROM SIMPLE DESERTION.

STATE	Child Under —Years	Limit in State Prison	Limit in County Jail	Imprison- ment	Fine
Arizona.....	16	7 years	6 months	.....	.....
California .....	6	7 "	1 year	.....	.....
Connecticut.....	6	.....	.....	5 years	\$500
District of Columbia..	14	.....	.....	2 "	\$250
Idaho.....	6	7 years	1 year	.....	.....
Illinois.....	1	3 "	.....	.....	\$300-\$1,000
Iowa.....	6	5 "	.....	.....	.....
Kansas.....	..	5 "	6 months	.....	.....
Kentucky.....	6	3 "	.....	.....	.....
Maine.....	6	.....	.....	5 years	\$500
Massachusetts .....	2	.....	.....	(h. c.) 2 yrs.	.....
Michigan.....	6	10 years	.....	.....	.....
Minnesota.....	10	1 year	.....	.....	.....
Mississippi.....	6	7 years	1 year	.....	.....
Missouri.....	6	5 "	6 months	.....	.....
Montana.....	6	7 "	1 year	.....	.....
New York.....	14	7 "	.....	.....	.....
North Dakota.....	6	1 to 7 years	1 year	.....	.....
Oklahoma.....	6	7 years	1 "	.....	.....
Pennsylvania .....	7	.....	12 months	.....	.....
South Dakota.....	6	7 years	1 year	.....	.....
Tennessee.....	..	5 "	not less than 6 mo.	.....	.....
Utah.....	6	5 "	6 months	.....	.....
Vermont.....	2	10 "	.....	.....	\$1,000
Wisconsin.....	10	2 "	.....	.....	\$500
Porto Rico.....	6	1 to 3 years	1 year	.....	.....
	10	7 years	1 "	.....	.....

There is no such statute in Alabama, Arkansas, Colorado, Delaware, Florida, Georgia, Indiana, Indian Territory, Louisiana, Maryland, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, Ohio, Oregon, Rhode Island, South Carolina, Texas, Virginia, Washington, West Virginia, Wyoming.



THE FORM OF INQUIRY REFERRED TO ON PAGE 6, WAS AS  
FOLLOWS, AND AN ABSTRACT OF THE REPLIES AP-  
PEARS IN THE TABULATED STATEMENT.

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- 1 Does the offense come under Civil or Criminal Code?
- 2 Is the offense felony or misdemeanor, or how classified?
- 3 Does it relate to wife as well as to children?
- 4 Does it include neglect as well as desertion?
- 5 Must wife sue, or by whom may action be brought?
- 6 What is Lowest Court in which it may be brought?
- 7 Is wife a competent witness?
- 8 What is penalty?
- 9 Is there any provision for giving bond for support, and,  
if so, what?
- 10 Is the offense extraditable?
- 11 Is desertion or neglect ground for divorce?
- 12 Is there provision for civil suit?
- 13 Remarks:

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